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CANADA

# Debates of the Senate

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OFFICIAL REPORT  
(HANSARD)

**Tuesday, March 9, 2004**

THE HONOURABLE DAN HAYS  
SPEAKER

This issue contains the latest listing of Senators, Officers of the Senate, the Ministry,  
and Senators serving on Standing, Special and Joint Committees.





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(Daily index of proceedings appears at back of this issue).

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## THE SENATE

Thursday, March 25, 2004

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

[Translation]

### SENATORS' STATEMENTS

#### THE HONOURABLE VIOLA LÉGER

##### CONGRATULATIONS ON BECOMING AN OFFICIER DE L'ORDRE DE LA PLÉIADE

**Hon. Rose-Marie Losier-Cool:** Honourable senators, today I wish to draw your attention to one of our colleagues, one of my friends, and one of New Brunswick's best known and most respected artists, the Honourable Senator Viola Léger, who is about to be officially promoted to the rank of Officier de l'Ordre de la Pléiade.

The Ordre de la Pléiade was established in 1976 by the Assemblée parlementaire de la Francophonie. It honours individuals for distinguished service to la Francophonie's ideals of cooperation and friendship.

The Honourable Viola Léger — or La Sagouine to many people — became a Chevalier de l'Ordre de la Pléiade in 1978. That shows how quickly her French-speaking parliamentary colleagues the world over recognized her worth and her contribution to la Francophonie.

But Viola Léger is more than just La Sagouine. Her influence is felt well beyond this country. Senator Léger is also Évangéline, Albertine, Maude, Grâce, Gabrielle Lévesque and many other unforgettable characters.

Viola Léger is much more than a great artist of theatre, television and film; she has also been a tireless storyteller since 1988, a talented director since 1980, the artistic director of the company bearing her name in Moncton since 1985, and a teacher since 1955.

From her beginnings at the Collège Notre-Dame d'Acadie in Moncton, to her courses in theatre at the Université de Moncton until 1997, Senator Léger has always wanted to give back to her country a part of that culture that enabled her to become what she is today: a beacon of Acadian talent.

Her work on behalf of la Francophonie earned her the Médaille du Conseil de la vie française en Amérique in 1987, the Order of Canada and the Prix Méritas de la Fédération des Acadiens du

Québec in 1990, the Chevalier de l'Ordre français des Arts et des Lettres in 1991, and the insignia of Membre de l'Ordre des francophones d'Amérique in 1998.

Her promotion today to the Pléiade is another milestone in a journey that shows no sign of coming to an end. This promotion is also one of the many ways her friends, colleagues and the international Francophonie can thank her for who she is and what she does.

Thank you, Viola, for defending my language and culture. Thank you, Mme Léger, for promoting French-speaking Canada and thank you, Honourable Senator Léger, for contributing as you do to the success of our institution.

Honourable senators, I would like to conclude by congratulating Monsignor Zoël Saulnier from Tracadie-Sheila, a poet, musician, orator, thinker and great man who will also be awarded the Pléiade this evening. Helping to spread French and Acadian culture has been his life's work.

[English]

### WORLD TUBERCULOSIS DAY

**Hon. Marjory LeBreton:** Honourable senators, each year, March 24 is recognized as World Tuberculosis Day. It commemorates the date in 1882 when Dr. Robert Koch announced that he had discovered the cause of this disease, which primarily attacks the lungs before striking other organs. Although that date proved to be a turning point in the global fight against this disease, the United Nations estimates that tuberculosis has killed 200 million people since Dr. Koch made his discovery 122 years ago.

The theme of this year's World Tuberculosis Day is "Every Breath Counts — Stop TB now!" Despite the fact that this disease can be cured if caught early, tuberculosis continues to kill about 2 million people a year. The World Health Organization estimates that, every second, someone around the world is newly infected with tuberculosis. Many factors have combined to keep tuberculosis a major health threat, such as poor health services and the emergence of drug-resistant strains of the disease. Also, while curing normal tuberculosis is fairly inexpensive, drug-resistant strains of TB can require hundreds of dollars' worth of medicine, and often do not provide a cure.

It is the relationship between HIV/AIDS and tuberculosis that is perhaps the most to blame for the current spread of the disease. HIV weakens the immune system, making a person more susceptible to tuberculosis. As a result, it has become a leading cause of death among HIV patients worldwide. African countries, already devastated with rampant HIV/AIDS, have witnessed a dramatic increase in their number of tuberculosis infections in recent years.



There are bright spots, however, in the fight against this disease. The Global Fund to Fight AIDS, Tuberculosis and Malaria has distributed millions of dollars for grassroots treatment and prevention initiatives all over the world. For example, the Global Fund reports that a grant given to Sierra Leone has rebuilt 70 per cent of the tuberculosis clinics that were destroyed during that country's civil war. It has been recommended many times by different groups, including the House of Commons Standing Committee on Foreign Affairs, that Canada's contribution to the Global Fund should be at least triple its current amount.

• (1340)

Honourable senators, we should not assume that tuberculosis is primarily a crisis in the underdeveloped world. An American study released earlier this month has pointed to complacency as the reason diseases like tuberculosis are still infecting people in industrialized countries. Closer to home, a report released last month by the Canadian Population Health Initiative found that Aboriginal people in our country have 16 times the rate of tuberculosis than do other Canadians.

In recognition of World Tuberculosis Day, I urge the federal government to recommit itself to the fight against this disease, both at home and abroad.

#### THE HONOURABLE B. ALASDAIR GRAHAM

##### TRIBUTE ON RETIREMENT

**Hon. Marie-P. Poulin:** Honourable senators, saying goodbye is never easy when you hold someone in affection and esteem, as we do Senator Al Graham. He served his region, his country and the Liberal Party for over 30 years as our colleague in this chamber, and when we learned of his impending retirement, so many of us said, "Already? He is too young." Apart from his political acumen, his knowledge and respect of political traditions and procedures, and his dedication to his commitments, Senator Graham is, above all, a generous man with one healthy sense of humour. Let me give you an example.

After I was called to the Senate in 1995, Senator Graham and I struck up a habit. Whenever we were in the chamber, one of us would say to the other, "Did you let the cat out?" The other one answered "No, isn't that your job?" There are those among you who raised your eyebrows when you heard the remarks, perhaps wondering whether we were harbouring some sort of political secret, or maybe something more than a collegial relationship. Well, Senator Graham, it is time to let the cat out of the bag. It is time to own up. It was pure mischievousness — on his part, of course, not mine. Senator Graham, it has been educational, inspiring and fun working with you, and, like our cat, you will live nine lives.

[Translation]

Honourable senators, yesterday evening, a reception was held to celebrate the many accomplishments of our colleague, and to raise money for the Nova Scotia Cancer Treatment Centre. The event was one of good taste and good humour — like our

colleague. After many touching tributes by representatives of his family, the government, the Liberal Party, the Conservative Party and the international community, and after his speech at the end, we all learned the secret of his eternal youth. Yes, it is a prayer by Cardinal Marty:

On the path to heaven,  
we never age,  
we continue to grow,  
and become ever younger.

Good luck Senator Graham.

[English]

#### LIBRARY AND ARCHIVES OF CANADA BILL

##### CONSEQUENCES OF REMOVAL OF CLAUSE 21

**Hon. Pat Carney:** Honourable senators, the Writers Union of Canada is concerned about the removal of clause 21 from Bill C-8, to establish the library and archives of Canada, to amend the Copyright Act and to amend certain acts in consequence. Clause 21 of the bill would have extended copyright protection for the unpublished works of many Canadian authors, such as Lucy Maud Montgomery, Stephen Leacock and World War I poet John McCrae.

Senator Kirby has explained that this section of the bill was removed because the copyright protection that was to be extended expired on December 31, 2003. Had the bill passed through Parliament prior to this date, the copyright extension provided in clause 21 would have remained. However, the failure to pass the bill before this deadline meant that the clause had to be removed and copyright protection lapsed.

Senator Kirby also explained that allowing clause 21 to remain would have attempted to place copyright upon works that had already entered the public domain as of December 31, 2003. I can empathize with the many families of authors who have been affected by Parliament's inefficiency in dealing with this matter.

Senator Kirby has advised that no national or international copyright regime has successfully retroactively imposed copyrights on works that have already entered the public domain. The Writers Union of Canada argues that this is not the case and has provided me with two examples where copyright has been retroactively applied after works have reached the public domain.

First, the United Kingdom revived copyright in some public domain works in 1996 when it extended the period of copyright protection from 50 to 70 years after the author's death in order to allow the estates of authors who had died between 50 and 70 years previously to benefit, as much as possible, from the extended protection henceforth accorded to the works of all deceased British authors.

When Canada joined the World Trade Organization, our own Copyright Act was amended to establish copyright in certain performers' performances that were previously in the public domain in Canada under section 32.4.

[ Senator LeBreton ]



Now that the government has dropped the ball on copyright protection for the works of these authors, where do we go from here? The Writers Union of Canada suggests extending copyright protection for a further three years in order to give rights holders and users an opportunity to discuss a more reasonable transition period for affected authors, as this was the purpose of clause 21 in Bill C-8. I encourage the government to do something to rectify this difficult situation as soon as possible.

## THE HONOURABLE B. ALASDAIR GRAHAM

### TRIBUTES ON RETIREMENT

**Hon. Joseph A. Day:** Honourable senators, I had the opportunity, along with a number of senators from this chamber and a few hundred other close friends of Senator Alasdair Graham, to dine at the Chateau Laurier. The tremendous regard in which Senator Graham has been held for his lifetime of service was apparent to all of us who had the opportunity to attend last evening for that wonderful celebration.

Senator Graham has been representing the people of this country, his province and his native island of Cape Breton with dignity and distinction for 40 years — 32 of them in this chamber. We have had the benefit of his service in a remarkable array of capacities, and he continues to make valuable contributions to the legislative framework of Canada to this day.

Beginning his political career in 1964, after failing to capture the riding of Antigonish-Guysborough in the federal election of 1958, Senator Graham came to Ottawa as an assistant to former Senator Allan J. MacEachen while he was Minister of Labour, and Senator Allan J. McEachen was in attendance last evening. Shortly thereafter, Al Graham became employed at the Cape Breton Development Corporation in Sydney, Nova Scotia, where he worked until he was appointed to this chamber in 1972.

Since that time, honourable senators, Senator Graham has worked tirelessly for the Liberal Party of Canada and Liberal International. We on this side of the chamber have benefited greatly from his efforts.

After being elected as president of the federal Liberal party in 1975, when I first met Senator Graham, he travelled throughout the country to meet with Canadians and discuss public policy with them. When he could not meet with them in person, he would speak to them on the telephone. He was so much known as a person who used the telephone that in 1980, during a dinner in his honour, former Senator Eugene Whelen presented Senator Graham with a red and white telephone on behalf of the Liberal members of this chamber.

In addition to serving Canadians domestically, Senator Graham has been responsible for leading Canadian delegations to symposia and conferences in countries on every inhabited part of this earth. He was deservedly made an honorary doctor of laws at his alma mater of St. Francis Xavier University in 1993.

Honourable senators, it is fitting that so many of us wished to speak yesterday that we ran out of time and some of us were not able to do so. We have only scratched the surface of Senator

Graham's contributions to his country and to this chamber. His continuing efforts on behalf of all Canadians will not soon be forgotten, and I am sure those efforts will not stop with his retirement from this place.

**Hon. John Buchanan:** Finally, Senator Graham.

Honourable senators, I have a few words to say about Senator Al Graham. I can assure you it will be short, and I can assure you it will all be complimentary. I have known him for about 40 years. My father was born in Port Morien, but moved to Dominion when he was five; I am also a Dominion boy. Al Graham was a Sydney boy; I am a Sydney boy. My people were all from Glace Bay, Sydney, Port Morien and Dominion. I was down in the coalmine with Al as well. Down in the coalmine, Al not only met his nephew, but also his neighbours, his cousins and friends. I only met three people I knew. I could not believe it.

• (1350)

Over the years, whenever I would speak at a graduation ceremony at Sydney Academy, Holy Angels Convent, St. FX University, or UCCB, Al was there. He was always there.

When I would travel through Cape Breton County, Inverness, Victoria County, to ceilidhs or whatever, Al Graham was there. It is like that old country and western song: We've been everywhere, man. He and I have been everywhere.

We even travelled to Boston from time to time, once in a while in a government plane. It is easy to say that now; it does not matter. We travelled on government business, of course.

Seriously, though, Al Graham is a credit to Cape Breton, Nova Scotia and his country. He is one of those fellows who will never be forgotten in Cape Breton. He has been a staunch supporter of everything going on in Cape Breton over the years. He has probably as many friends throughout Nova Scotia as I do. I say that in a very complimentary way.

We both have a doctorate of laws degree from St. FX University. I have four other honorary degrees that he does not, so he has to catch up to me.

During my years in opposition in Nova Scotia and my 13 years as premier of that province, Al Graham was very helpful to me, not in a political but a government sense. He was always very good to all of my members from Cape Breton, particularly during that period of time.

Al, it has been a great pleasure knowing you, as it will be to know you for many years to come. I wish to thank you for speaking at my tribute dinner last November at the World Trade Centre in Halifax. It was a better event because you were there and because of your words. One thing that upsets me is that last night I did not get a chance to speak at your dinner. I was waiting for Senator Rompkey to invite me to sing *Song for the Mira*, but he did not. I thought Al would tell him to be sure to do that, but he did not. Some day, maybe in this chamber, I might get up and sing *Song for the Mira*.



I wish to end by saying this to my friend: May the road rise up to meet you and may the wind be always at your back. May the gentle rains fall upon your fields, may the sun shine upon your countenance, and may the good Lord hold you and your family in the palm of his hand forever. God bless you.

**Hon. Senators:** Hear, hear!

[Translation]

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw to your attention the presence in the gallery of Reverend Father Zoël Saulnier, a guest of the Honourable Senator Losier-Cool. Tonight, Father Saulnier, who is accompanied by members of his family, will receive the Chevalier de l'Ordre de la Pléiade. On behalf of all senators, I congratulate you and welcome you to the Senate of Canada!

## ROUTINE PROCEEDINGS

### HUMAN RIGHTS COMMISSION

#### 2003 ANNUAL REPORT TABLED

**The Hon. the Speaker:** Honourable senators, I have the honour to table the 2003 annual report of the Canadian Human Rights Commission, pursuant to section 61 of the Canadian Human Rights Act and section 32 of the Employment Equity Act.

[English]

### QUEEN'S THEOLOGICAL COLLEGE

#### PRIVATE BILL TO AMEND ACT OF INCORPORATION—REPORT OF COMMITTEE

**Hon. George J. Furey,** Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, March 25, 2004

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

#### THIRD REPORT

Your Committee, to which was referred Bill S-15, to amend the Act of incorporation of Queen's Theological College, has, in obedience to the Order of Reference of Thursday, March 11, 2004, examined the said Bill and now reports the same without amendment but with observations, which are appended to this report.

Respectfully submitted,

GEORGE FUREY  
Chair

[ Senator Buchanan ]

### OBSERVATIONS to the Third Report of the Standing Senate Committee on Legal and Constitutional Affairs

Bill S-15 is a private bill that amends the 1912 Act of Parliament that incorporated Queen's Theological College in Kingston. In all that time, the College has not returned to Parliament for ask for amendments to that Act. Meanwhile, much has changed. The College was originally founded as a Presbyterian College, but when the union of the Presbyterian, Methodist and Congregational Churches took place in 1925 to produce the United Church of Canada, the Act was not changed to reflect this new relationship. There are a number of other amendments to the Act that the College also wishes to see made, including changes in the composition and role of its Board of Management.

Your Committee is satisfied that the College has complied with all of the requirements for a private bill set out in the *Rules of the Senate*, and accepts the testimony of College representatives that the contents of Bill S-15 are reasonable and required.

On the other hand, your Committee believes that the time has passed when private corporations incorporated by a Special Act of Parliament should be required to return to Parliament to modernize their governance structures. Your Committee has previously recommended that the *Canada Corporations Act* should be amended to permit these corporations to regulate such matters internally, and we reiterate that recommendation in the context of Queen's Theological College and all other Special Act corporations in the same situation.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

**Hon. Lowell Murray:** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(b), I move that the bill be read the third time later this day.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, would the honourable senator explain why the bill should be accelerated rather than follow the proper procedure?

**Senator Murray:** Honourable senators, I am advised that if the Senate were to accommodate us in this way, the Honourable Speaker Milliken in the other place would use his good offices, as he is also the Member of Parliament for Kingston and the Islands, to facilitate the passage of the bill through the House of Commons by the end of the week.

**Senator Lynch-Staunton:** What is the haste? Does the honourable senator know something about the importance of the end of next week that he would care to share with the rest of us?

**Senator Murray:** Honourable senators, I have been around here long enough to have lively suspicions.

**Senator Lynch-Staunton:** With that appropriate explanation, I am very happy to support the motion.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

## SEX OFFENDER INFORMATION REGISTRATION BILL

### REPORT OF COMMITTEE

**Hon. George J. Furey,** Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, March 25, 2004

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

### FOURTH REPORT

Your Committee, to which was referred Bill C-16, respecting the registration of information relating to sex offenders, to amend the Criminal Code and to make consequential amendments to other Acts, has, in obedience to the Order of Reference of Thursday, February 19, 2004, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

GEORGE FUREY  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Furey, bill placed on Orders of the Day for consideration at the next sitting of the Senate.

## CRIMINAL CODE

### BILL TO AMEND—REPORT OF COMMITTEE

**Hon. George J. Furey,** Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, March 25, 2004

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

### FIFTH REPORT

Your Committee, to which was referred Bill C-250, to amend the Criminal Code (hate propaganda), has, in obedience to the Order of Reference of Friday, February 20, 2004, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

GEORGE FUREY  
*Chair*

**The Hon. the Speaker:** When shall this bill be read the third time?

On motion of Senator Joyal, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

• (1400)

## CITIZENSHIP ACT

### BILL TO AMEND—FIRST READING

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition)** presented Bill S-17, to amend the Citizenship Act.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Kinsella, bill placed on the Orders of the Day for second reading two days hence.

[Translation]

## ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

POLITICAL MEETING, MARCH 6-9, 2004  
REPORT TABLED

**Hon. Rose-Marie Losier-Cool:** Honourable senators, pursuant to rule 23(6), I have the honour to table in both official languages the report of the Canadian Branch of the Assemblée Parlementaire de la Francophonie and the related financial report. The report is on the meeting of the APF Political Committee held in Nouakchott, Mauritania, from March 6 to 9, 2004.



[English]

[English]

## CANADA-EUROPE PARLIAMENTARY ASSOCIATION

MEETING OF EUROPEAN BANK FOR  
RECONSTRUCTION AND DEVELOPMENT,  
JANUARY 22-23, 2004—FIRST PART OF THE 2004  
ORDINARY SESSION OF THE PARLIAMENTARY  
ASSEMBLY OF THE COUNCIL OF EUROPE,  
JANUARY 26-30, 2004—REPORTS TABLED

**Hon. Isobel Finnerty:** Honourable senators, pursuant to rule 23(6), I have the honour to table, in both official languages, the report of the Meeting of the Committee on Economic Affairs and Development at the European Bank for Reconstruction and Development (EBRD), held in London, England, from January 22 to 23, 2004, and the First Part of the 2004 Ordinary Session of the Parliamentary Assembly of the Council of Europe held in Strasbourg, France, from January 26 to 30, 2004.

MEETING ON GLOBAL PARTNERSHIP AGAINST  
SPREAD OF WEAPONS AND MATERIALS OF MASS  
DESTRUCTION, NOVEMBER 20-21, 2003—REPORT  
TABLED

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I have the honour, pursuant to rule 23(6), to table, in both official languages, the report of the delegation to the Inter-Parliamentary Conference on the Global Partnership against the spread of weapons of mass destruction and materials of mass destruction held in Strasbourg, France, from November 20 to 21, 2003.

[Translation]

## OFFICIAL LANGUAGES

COMMITTEE AUTHORIZED TO MEET  
DURING SITTING OF THE SENATE

**Hon. Maria Chaput:** Honourable senators, with the leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Committee on Official Languages be empowered to sit at 5:30 p.m. on Monday, March 29, 2004, even though the Senate may be then sitting, and that rule 95(4) be suspended in relation thereto.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

Motion agreed to.

## QUESTION PERIOD

## PUBLIC WORKS AND GOVERNMENT SERVICES

AUDITOR GENERAL'S REPORT—  
SPONSORSHIP PROGRAM—INVOLVEMENT  
OF PRESIDENT OF PRIVY COUNCIL

**Hon. W. David Angus:** Honourable senators, my question today is once again on the subject of "AdScam," which I understand is the new acronym for the sponsorship scandal. It seems that as each day unfolds a new version of the government's involvement emerges. It is all very troubling.

During her testimony this morning at the House of Commons Public Accounts Committee, Huguette Tremblay, who was an assistant to program executive director Charles Guité, implicated several Liberal members of Parliament and ministers who, according to the witness, were in regular contact with Mr. Guité, Mr. Tremblay and other officials involved in the sponsorship scandal. When asked who these people were, Ms. Tremblay identified the current President of the Queen's Privy Council, Denis Coderre. According to her testimony, Mr. Coderre met and spoke regularly with Messrs. Chuck Guité, Pierre Tremblay and Jean Pelletier concerning files in the sponsorship program.

Prime Minister Martin has asserted time and again, particularly on February 12 at his press conference and on February 18 in the House of Commons, that he made a point of personally interviewing all current cabinet ministers with regard to their possible involvement in or knowledge of the sponsorship program.

As far as I understand it, he has asserted — I believe even confirmed — to Canadians that all ministers interviewed indicated that they had no involvement in this matter.

Can the Leader of the Government in the Senate confirm that President of the Privy Council, Denis Coderre, was one of the ministers interviewed by the Prime Minister and, second, that he advised the Prime Minister that he had no involvement in the sponsorship program?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, the Prime Minister's statement stands for itself.

**Senator Angus:** Honourable senators, could the government leader please confirm, or deny, that Denis Coderre had knowledge of the sponsorship program and did not disclose it to the Prime Minister?

**Senator Austin:** Honourable senators, I have no personal knowledge either of what Minister Coderre knows or of what he did. However, it would be unusual for a question to be valid in terms of whatever evidence may be proceeding before a committee in the other place.

**Senator Angus:** Honourable senators, I understand that answer, but does the government leader have any information that would indicate that Mr. Coderre was aware of the sponsorship program and participated in these meetings referred to by Ms. Tremblay this morning?

**Senator Austin:** I have no personal information.

• (1410)

## PRIME MINISTER'S OFFICE

### NATIONAL UNITY RESERVE FUND

**Hon. W. David Angus:** Honourable senators, yesterday, reports of a secret unity fund of \$50 million, allegedly set up to seed fund the sponsorship program, were mentioned in the House of Commons and in the media this morning. Canadians were told by Mr. Alcock, the President of Treasury Board, as well as by the Prime Minister himself, that these funds were appropriately allocated to worthwhile programs.

Can the Leader of the Government please provide senators with a breakdown of how these funds were spent?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, yesterday, Senator LeBreton asked that question of me. I am in the process of obtaining whatever information I can to provide to the Senate.

**Senator Angus:** Honourable senators, I am sorry if my question is redundant. However, I understand that the question I ask today is not exactly the same as the question asked yesterday by my honourable colleague.

Can the Leader of the Government inform honourable senators if the Prime Minister, in his capacity as Finance Minister at the time, knew about this fund, before the past few days, and approved of its existence and its expenditure?

**Senator Austin:** Honourable senators, yesterday, I answered the question of the Honourable Senator LeBreton. I will give the honourable senator a short summary of the answer, which is that the Right Honourable Paul Martin was unaware of the fund when he was Minister of Finance, and he was unaware of the fund when he ceased to be Minister of Finance and before he became Prime Minister.

**Hon. Marjory LeBreton:** Honourable senators, I will phrase my question a little more carefully.

Yesterday, I asked some questions about the Liberal fund which operated out of the Chrétien PMO, and which was known as the national unity reserve. Documents from the Public Accounts Committee show that \$35.8 million was pumped into the sponsorship program from this unity reserve. These documents, signed in November 1996 and November 1997 by then Prime Minister Jean Chrétien, would have — or should have — gone to the cabinet committee of Treasury Board for

approval. The deputy chair of that committee was the Minister of Finance, now the current Prime Minister. Whether or not Mr. Martin attended that particular cabinet meeting, he would have received briefing books with all the submissions under consideration.

Does the Leader of the Government in the Senate still believe that Prime Minister Martin was not aware of the national unity reserve when he would have been briefed and possibly attended a cabinet meeting approving the transfer of these funds?

**Senator Austin:** That is my information, honourable senators.

**Senator LeBreton:** Honourable senators, it is reported that the Prime Minister had to approve every transaction from the reserve to departments wishing to fund community events. Can the Leader of the Government in the Senate tell us how members of Parliament were made aware of this fund? Was the fund discussed at Liberal caucus meetings? Were there secret e-mails to members of the Liberal caucus? Or was it discussed quietly at fundraisers? Just how were members of Parliament made aware of this fund and how to access it?

**Senator Austin:** Honourable senators, I have no information, although I know that Senator LeBreton is aware that caucus matters are not subject to questions.

**Hon. Gerry St. Germain:** Honourable senators, there will be no sound and lights, nor music.

As to whether or not members of Parliament received information on this fund, I tried to pose that question yesterday when I remarked that this slush fund was only available to Liberal MPs. I made that allegation or that inference. This is not a question involving caucus matters. It is a question of whether or not members of Parliament were privy to the fact that this fund existed, and whether they would have had access to it in any way, shape or form. I am referring to the \$50 million slush fund in the Prime Minister's Office.

**Senator Austin:** Honourable senators, I answered the question yesterday. I said that there are no allegations of misuse of any funds whatsoever. Senator LeBreton asked me yesterday where these funds were shown in the Estimates and budgets of the Government of Canada. I am seeking to obtain that information and to provide it to her.

**Senator St. Germain:** Honourable senators, it is not a question of misuse; I am talking about plain knowledge and access. Are we not all equal here, or are some more equal than others? That is my question.

**Senator Austin:** Honourable senators, the answer to that question is linked to the answer I just gave. I am searching for the information I was requested to present, if, when and as I can present it. The funds will have been disclosed in the budgets and Estimates of the Government of Canada. I intend to try to pinpoint that disclosure.



## HUMAN RESOURCES DEVELOPMENT

THE BUDGET—  
COST OF POST SECONDARY EDUCATION

**Hon. Ethel Cochrane:** Honourable senators, I want to get back to the budget. My question concerns student debt.

The promises in Paul Martin's so-called education budget in 1998 were never realized. As Prime Minister, he has allowed students to sink even further into debt.

The federal budget contained an increase in the federal student loan ceiling from \$165 a week to \$210 a week. With that, he has made it easier for students to borrow larger amounts of money. This may help them access post-secondary education now, but it will strangle them financially once they graduate and must pay that money back. I am sure my honourable colleague Senator Rompkey, who is a former teacher, will agree with me because he knows of the problems of students.

The only way to deal with this sky-rocketing problem is for the federal government to work with the provinces in cutting the high cost of attaining a post-secondary education.

Can the Leader of the Government in the Senate tell us what this government will do to address the high price Canadians have paid, and continue to pay, to get a post-secondary education?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I think all of us would like to see absolutely free post-secondary education made available to all Canadian students. However, it is not possible in the current financial situation in Canada to achieve that excellent goal.

Senator Cochrane, in this budget the government is acting to advance assistance to students as far as it can, given the fiscal constraints which Canada now faces. We are acting on a number of fronts to assist students with the burden of education. The budget introduced a new grant for first-year students from low-income families and an upfront grant for students with disabilities. These grants will reduce the amount of federal student debt that would be otherwise incurred.

In introducing the new Canada Learning Bond of up to \$2,000 for children and families eligible for the National Child Credit Benefit Supplement, the government is also enhancing the matching rate on Canada Education Savings Grants for low- and modest-income families. These initiatives will help families accumulate savings for future post-secondary studies.

The Government of Canada also recognizes that some graduates face financial hardship in repaying Canada student loans. Therefore, it is making improvements to key debt measures. The budget will increase by 5 per cent the income threshold for interest relief eligibility. As a result of this change, more borrowers will become eligible for interest relief, in particular those with low incomes and high student debt.

The maximum amount of debt reduction and repayment will be increased to \$26,000 from the current maximum of \$20,000 to ensure that the increase in the weekly loan ceiling does not result in greater financial hardship for borrowers in long-term financial difficulty.

• (1420)

Finally, the Government of Canada will review with the provinces — as was suggested by the Honourable Senator Cochrane — and with other stakeholders, the current debt-management measures, to ensure that they better reflect the capacity of the borrowers to repay their student debt.

**Senator Cochrane:** I am not asking for free education for our post-secondary students. I am asking the government to make loans in such a way as to reduce the cost. I am asking the government to work out a plan with the provinces, and to please do it soon.

The government leader talks about low-income Canadians. I have a supplementary question on that. The budget introduces a learning bond for children from low-income families, beginning with those born this year. That means that the money will not be paid out until 2022 — 18 years from now, when these children are old enough to be in post-secondary education. That is when this bond starts. By that time, the government estimates that the average cost of a four-year degree program will have climbed to over \$87,000.

Several recent studies that I have read have shown that low-income families are not able to save money for their children's education, even with government assistance. Absent any family contributions, the bond will be worth about \$3,000. Therefore, it is clear that this learning bond is merely a drop in the bucket for students who, 18 years from now, will face the daunting if not impossible challenge of financing their education. Poor parents!

Could the Leader of the Government in the Senate tell us how this learning bond will help students from low-income families? Furthermore, where is the help in the budget for today's students?

**Senator Austin:** Honourable senators, I believe I answered the last part of the honourable senator's question in my lengthy and detailed penultimate answer.

With respect to the rest of the question, the Canada learning bond will not necessarily stay at its current level. We all hope that, as the fiscus allows, future governments will be able to enrich the program that has been started in this budget. However, the honourable senator must understand that, at the moment, the Government of Canada provides funding to the provinces and territories for post-secondary education through cash and tax transfers under the Canada Health and Social Transfer, which will start April 1, 2004. That transfer provides predictable and sustainable federal funding for post-secondary education. It is estimated in the year 2004-05 that that total will be \$14.9 billion.

## FINANCE

THE BUDGET—PREDICTION ON  
DEBT-TO-GROSS-DOMESTIC-PRODUCT RATIO

**Hon. Terry Stratton:** Honourable senators, the budget makes the bold commitment that the debt will fall to 25 per cent of GDP by 2014. That really sounds impressive, except for a bit of elementary math.

The falling debt-to-GDP ratio can result from falling debt and/or a rising GDP. Over the past several years, counting inflation, the GDP growth has typically been in the ballpark of 5 per cent a year. Such a trend will bring our GDP to more than \$2 trillion by 2014. The current debt of \$500 billion, divided by \$2 trillion of GDP in 2014, would be 25 per cent. In other words, without doing anything but relying on simple growth in our GDP, the debt-to-GDP ratio would go down to 25 per cent just through growth.

Could the Leader of the Government in the Senate confirm that basic math, that unless there is a complete meltdown in the economy, the debt will fall to 25 per cent of GDP by 2014, without the government doing a darned thing.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I will not quarrel with Senator Stratton's math or with his general statement. The government is setting a 10-year objective. The fact that it may not be a totally painful accomplishment is probably a credit to the Canadian economy. As the honourable senator has said, the objective is there and, unless something very untoward takes place in the global economy, we should be able to achieve it through a combination of paydown in debt and economic growth. I know that Senator Stratton shares a similar view with regard to the 10-year objective of the government.

**Senator Stratton:** Honourable senators, my concern is that we are sitting here with a \$37-billion yearly interest payment, which does not seem to have been addressed. That number will drop, I hope. However, in the forecast by the government, it looks as though that number will stay at about \$37 billion.

My problem with that is that Canada soon will be facing the retirement of all the baby boomers. The demand on our health care system will grow exponentially, because health care costs in each province are in the range of 40 to 50 per cent of their budgets annually, and those provincial budgets grow at a rate of 8 to 10 per cent annually.

How can we possibly address what I think is the most substantial issue facing this country? If the debt interest payment could be cut in half, \$18 billion could be applied to health care. That is the magic formula that should be addressed. By reducing the interest on the debt, the federal government could guarantee the provinces stable health care funding on an annual basis. Why would the government not look at that?

**Senator Austin:** In fact, that is our policy. As the honourable senator knows, since 1993, payment on the debt has freed up \$3-billion worth of interest costs to the government, which is now absolutely essential to the government's contingency reserve. The direction the honourable senator is advocating is in fact the direction in which the government is going. I am pleased we are in concurrence on this particular issue.

I do want to tell the honourable senator, because I know he understands this, that the 10-year objective is designed as a signal to the financial community. In that way, the international

financial community can take the 10-year objective into account when they calculate their demand for interest rates on Canadian commercial paper and when they take into account the level of the Canadian currency, which is affected by interest rates and the soundness of Canadian performance.

Honourable senators, it is exciting to be able to report that, in 2004-05, Canada will have the lowest debt-to-GDP ratio in the G7. I think that that is an amazing and desirable accomplishment. It is not good enough yet, however. As the Honourable Senator Stratton has said, we need to be in even better shape when it comes to the debt-carrying burden in Canada.

**Senator Stratton:** That still leaves the question unanswered as to stabilized funding for the provinces, whose budgets are facing exponential growth — a growth that will increase dramatically with the retirement of baby boomers. I do not see anywhere a promise of increased stabilized funding over the next 10 years, so that the provinces will not face this problem of continued explosive growth in health care costs. Stabilized funding will allow the provinces to manage that growth.

**Senator Austin:** I appreciate the seriousness of the question the honourable senator is raising. There is a complicated matrix of issues that allows this country to address the growth of health care costs. One is the cost of interest, including the costs to provinces with respect to their borrowing. The 10-year objective is designed to assist that. As the honourable senator knows, the subject he raised is under active discussion among the federal government, the provinces and the territories with a meeting planned this July to address the whole question of the growing costs of medical care.

• (1430)

Such issues as the Romanow report and the report of our own Standing Senate Committee on Social Affairs, Science and Technology, chaired by Senator Kirby, are in play because there are two sides to the issue — the revenue-raising capacities of federal, provincial and territorial governments, and the demand side to which the honourable senator has referred, by which I mean the aging boomer population and the cost of supplying advancing technology to that generation of Canadians. These are very difficult subjects and very important ones. I am delighted that my honourable friend has raised them.

**Hon. Donald H. Oliver:** Honourable senators, my question is to the Leader of the Government in the Senate. It also deals with the budget and, on this particular occasion, with medicare.

*The Globe and Mail* today bears the headline:

PM seeks 10-year medicare plan

Asks Health Minister to develop blueprint to ensure long-term financial stability

This is a surprising announcement coming two days after a federal budget that seemed purposefully to avoid dealing with long-term funding for our health care system. Why was there no mention of this 10-year plan in Tuesday's budget?



**Senator Austin:** Honourable senators, I have no idea.

**Senator Oliver:** Honourable senators, the Minister of Health is quoted in *The Globe and Mail* today as saying that the federal government acknowledges there is possible room to manoeuvre to accommodate increased health care funding. The provinces must find that statement surprising, considering that the only help offered them in Tuesday's budget was the \$2 billion that had been promised about four different times already, starting with the previous Prime Minister. The \$2 billion is a one-time-only payment. Increases in transfer payments will offset it, meaning that the provinces will in fact have lower operating budgets this year.

Could the Leader of the Government in the Senate tell us why there is not a greater commitment to health care funding in the budget and whether the Minister of Health admits that the government has room to manoeuvre to find it?

**Senator Austin:** Honourable senators, I again point to the ongoing discussions between the federal government, the provinces and the territories with respect to the entire health care topic and the very important forthcoming July meeting. We will see many statements by the parties taking positions with the public. I have noticed newspaper advertisements under the authority of the Council of Premiers alleging certain facts with regard to Canada's current health care. Perhaps there will be statements by a number of people on this subject as the fiscal chess game is played out.

## FOREIGN AFFAIRS

### THE BUDGET—FOREIGN AID

**Hon. A. Raynell Andreychuk:** Honourable senators, yesterday in the budget speech of the Minister of Finance, he announced an 8 per cent increase in the money allotted for foreign aid. Like most everything else announced in that speech, that increase is not new and not enough.

Thirty-five years ago, the Pearson commission, chaired by the former Liberal Prime Minister, recommended that 0.7 per cent of gross national income be reserved for development assistance. In the 1990s, his Liberal successors cut aid by 29 per cent, the largest cuts to any government department. Today, spending on aid in Canada hovers around 0.29 per cent of the gross national income — less than half what Mr. Pearson recommended 35 years ago.

Will the Leader of the Government in the Senate confirm for this chamber that the Liberal government of today has abandoned Mr. Pearson's recommended goal, one that was embraced by the World Bank, the OECD and the United Nations?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I can confirm that this government has not abandoned the long-term goal of 0.7 per cent. That remains the objective of this government for our foreign-aid contribution.

I would inform Honourable Senator Andreychuk that to reach that target would require approximately \$5 billion in additional funds in this year alone. It is, again, a target that competes with a whole host of other requirements for the management of Canada's domestic and international interests. It competes with other priorities, but the objective remains.

**Senator Andreychuk:** Honourable senators, it is laudable to have an objective, but I do not think we are seriously working toward it. When there were cutbacks in the late 1980s, the Minister of Foreign Affairs of that day fought vigorously and successfully to exclude many portions of development aid from being cut back. It was only in the 1990s that this government said it would put its house in order and then begin taking this situation seriously and catching up. We are seriously behind other countries. If we wish a safe, secure, stable and prosperous world, we would be wise to put our money into aid and not have to face some of the horrific challenges of humanitarian service that are currently before us. Will this government rethink its strategy and make the safety and security of Canadians one of the goals of increasing development aid?

**Senator Austin:** Honourable senators, government asserts that the safety and security of Canadians is a paramount national objective and that it is meeting the safety and security requirements of Canadians.

The sum of \$248 million, which is added to last year's total, is not an insignificant amount of money. It shows the direction in which the Government of Canada wishes to go.

The Honourable Senator Andreychuk refers to the situation in the late 1980s. She might also notice the very substantial deficit into which that government took Canada. We cannot borrow money continuously for all of our needs. We have to manage in a stable fiscal environment.

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, I have the honour of presenting two delayed answers. The first is in response to an oral question posed in the Senate on February 19, 2004, by Senator Corbin, regarding official languages and the bilingual status of the city of Ottawa. The other is in response to an oral question posed in the Senate on February 12, 2004, by Senator Sparrow, regarding performance bonuses to senior officials.

## INTERGOVERNMENTAL AFFAIRS

### OFFICIAL LANGUAGES— BILINGUAL STATUS OF CITY OF OTTAWA

(Response to question raised by Hon. Eymard G. Corbin on February 19, 2004)

Following a request from the City of Ottawa, the Government of Canada announced April 18, 2002 a five-year financial assistance of \$2.5M to help the City of Ottawa meet the costs related to the transition towards bilingual services. The funds granted to the City of Ottawa

aim primarily to sustain language training for municipal employees in both official languages, promote translation, and allow the implementation of a program that encourages businesses to offer bilingual services as well as to hire bilingual staff.

The City of Ottawa has begun its budgetary review for the year 2004. According to our information, financing for the delivery of bilingual services will be included in this revision. The City of Ottawa could reduce the bilingual services budget.

The Department of Canadian Heritage is following this issue and is ready to discuss with the City of Ottawa to re-examine the situation if cuts to bilingual services were to be announced.

I congratulate the Ontario Government for announcing that they are ready to follow-up on the City of Ottawa's request to officially recognize its bilingualism policy.

## TREASURY BOARD

### PERFORMANCE BONUSES TO OFFICIALS

*(Response to question raised by Hon. Herbert O. Sparrow on March 26, 2004)*

#### On what basis is performance pay awarded?

The Performance Management Program for Executives (PMP) was initiated by the government as:

- A performance management tool designed to help departments and agencies achieve results as set out in their business plans;
- A compensation program that, by awarding achievement of results, provides an incentive for achieving and surpassing objectives.

It is government policy that, at the entry level, the total compensation of executives should be comparable to the external labour market. Total compensation is defined as base salary, variable pay and other benefits such as pension.

Executive total compensation at the EX01 level, or the first level of executive, is maintained at a level equivalent to EX01 equivalents in the Canadian labour market. This 'external labour market' includes the broader public sector (universities, hospitals and municipal governments, not-for-profit organizations and public utilities) and the private sector.

In order to make the comparison with the external labour market, the government uses independent analysis to calculate a valuation (as a dollar value) for EX01 total compensation. Variable pay is an important element of the

total compensation comparison or benchmark with the external labour market. The independent Advisory Committee on Senior Level Retention and Compensation considers this value as well as other labour market information when it makes recommendations for salary adjustments.

Benchmarking to the external labour market occurs at the EX01 level only; compensation of higher levels falls within the pre-determined salary structure which is based on differences in accountability, problem-solving and know-how at each different level of executive. Compensation at levels higher than the entry level falls below that of the external labour market, for example, past studies have shown that the total compensation for the EX05, or highest level in the Group, is about 35 per cent lower than the compensation of equivalent positions in the labour market.

It is expected that the majority of public service executives would earn some amount of variable pay in any given year, as is the case in the external market, with the amount of variable pay depending on individual performance. The average earned by executives at all levels is seven per cent. Some executives earn the maximum possible (10 per cent for EX01 to EX03, and 15 per cent for EX04 and EX05) and some earn very small amounts.

The variable pay portion of total compensation must be re-earned each year and varies from year to year for each executive based on the achievement of key commitments.

Without variable pay, executive salaries at the EX01 level would significantly trail the compensation afforded to labour market equivalents.

Executive performance affects the two components of executive cash compensation: base salary and variable pay. First, movement of the base salary within its range, or 'in-range movement' is affected by the achievement of Ongoing Commitments. Second, variable pay, or annually re-earnable pay that is based on performance depends on the achievement of key commitments. Executives who do not meet their ongoing commitments are not eligible for either in-range salary movement or variable pay.

As recommended by the Advisory Committee on Senior Level Retention and Compensation, the PMP is designed to allow executives to move from the bottom of the salary range to the maximum, in about three years, subject to meeting ongoing commitments. As a result, executives who have met ongoing commitments for three years would be expected to be at the top of the salary range for their level. Because there is a 15 per cent difference between the bottom and top of the salary range, normal movement in the range is about five per cent each year.



### **Variable Pay**

Beginning in April 2000 executives were eligible to earn the full amount of variable pay recommended by the Advisory Committee on Senior Level Retention and Compensation as follows:

- EX 01 to EX 03 up to 10 per cent
- EX 04 to EX 05 up to 15 per cent

Deputy heads have the authority to award any amount of variable pay within these parameters.

### **Budgets for Variable Pay**

The Treasury Board has provided departments and agencies with a budget allocation of seven per cent of executive payroll for variable pay. The allocation may be exceeded when warranted by organizational results, provided that the departments absorb any excess from their overall budgets.

The budget allocation for variable pay is based on a normal distribution of amounts, taking into account that most executives are eligible for up to 10 per cent of their salary in variable pay, and the small number of executives at the Assistant Deputy Minister level are eligible for up to 15 per cent. Some executives will receive no variable pay, and some will receive the maximum. In other words, seven per cent is the average of all variable pay as a percentage of the entire executive payroll and does not reflect how departments actually manage their variable pay budgets.

Because an executive's annual cash compensation consists of salary plus variable pay, it is expected that, in a year when departmental goals are met, departments will fully expend their budgets for variable pay.

### **What classes of employees are the recipients of performance pay?**

A number of groups and levels in the federal public service are eligible for performance pay, including deputy ministers, CEOs of Crown corporations and certain excluded and unrepresented groups (AS-7 and 8, ES-8, FI-4, IS-6, LA-1, LA-2-A and 2-B, PE-6, PM-MCO 1 to 4, PG-6, TR-4 and 5, WP-7), senior non-specialist military officers of the Canadian Forces (CF) (both regular and reserve forces) at the rank of Colonel and above, levels LA-3A, LA-3B and LA-3C of the excluded Law Group, levels DS-7A, DS-7B and DS-8 of the Defence Scientific Service Group, levels MD-MOF-4, MD-MOF-5 and MD-MSP-3 of the Medicine Group, and Canadian Forces Legal Officers (both regular and reserve forces) at the rank of Colonel and Brigadier-General and Canadian Forces Medical and Dental Officers (both regular and reserve

forces) at the rank of Lieutenant-Colonel and above in accordance with the *Queen's Regulations and Orders for the Canadian Forces (QR&O)*.

Departments and agencies under the *Public Service Staff Relations Act Part 1-1* are required to report to the Public Service Human Resources Management Agency of Canada annually on their applications of the PMP to members of the EX Group. These results are provided as part of the response to your question.

### **What percentage of the class receives performance awards?**

Of the EX group 93.5 per cent of the group received variable pay for 2002-03. This figure is comparable to the 93 per cent reported by the Conference Board of Canada for private sector executives.

### **What was the total amount paid in such bonuses?**

The Public Service Human Resources Management Agency of Canada is providing the requested information for members of the EX Group. Information is provided by department, by type of performance pay (i.e. in-range salary increases and variable pay) but not by EX level except in aggregate because this information would have a tendency to disclose information that must be protected under the *Privacy Act*.

For organizations with five or fewer executives, only the number of executives and the levels will be provided. In order to comply with the *Privacy Act*, the totals for the increases to base salary and the variable pay is provided for these organizations.

The total amount paid out in increases to salaries for 2002-03 is \$8,976,789.

The total amount paid out as variable pay for 2002-03 is \$31,621,179.

### **How many public service employees have been paid bonuses in this fiscal year?**

The information is attached as Annex 1.

### **What are the names of the recipients and the amounts received of these bonuses over the same fiscal year?**

Information about amounts received by specific individuals is protected by privacy legislation.

### **Annex 1**

Listing by department of the numbers in each level of the group, the number who received in-range salary increases and the number who received variable pay, the expenditure on in-range movement and the expenditure on variable pay.

(For text of annex, see Appendix, p. 645.)

## PROTECTION OF NAHANNI WATERSHED

### NOTICE OF MOTION URGING GOVERNMENT TO TAKE ACTION

Leave having been given to revert to Notices of Motions:

**Hon. Consiglio Di Nino:** Honourable senators, I give notice that on Tuesday, March 30, 2004, I will move:

That the Senate call upon the Government of Canada:

(a) to expand the Nahanni National Park Reserve to include the entire South Nahanni Watershed including the Nahanni karstlands;

(b) to stop all industrial activity within the watershed, including:

(i) stopping the proposed Prairie Creek Mine and rehabilitating the mine site,

(ii) ensuring complete restoration of the Cantung mine site,

(iii) immediately instituting an interim land withdrawal of the entire South Nahanni Watershed to prevent new industrial development within the watershed; and

(c) to work with First Nations in the Deh Cho and Sahtu regions of the Northwest Territories to achieve these goals.

Given that we will be going into an election and that the odds are that we will not have the opportunity to appoint a new ethics officer, would the Leader of the Government in the Senate — who may not be the leader at that time; I hope it will be our leader — agree and confirm to this house that he will, if the bill passes, agree to the convention that he is proposing to establish if he continues to be the Leader of the Government in the Senate?

**Senator Austin:** Honourable senators, that is a hypothetical question. Normally I would not answer it, but I will in this case.

If I should continue in a new Parliament to be the Leader of the Government in the Senate, I will ask the government of that day to permit me to give the same undertaking as I gave on February 24. I would be delighted to add to the precedent that I started by taking the same step twice.

**Hon. Donald H. Oliver:** Honourable senators, my question is for the Leader of the Government as well. It is a theoretical question. This is Bill C-4, "C" indicating a bill that started in the House of Commons and went through first, second and third reading in the House of Commons. When that bill got to the Senate and had its second reading, the Honourable Leader of the Government in the Senate made a unique proposal for something new to this House of Commons bill. That was a brand new procedure and a brand new convention, started by, Senator Austin, in relation to the appointment of the new ethics official.

My question to Senator Austin is whether or not proceeding with his suggestion for a new way and new methods of appointing this ethics commissioner is creating an injustice for the other chamber, whose bill this is, by not affording that chamber an opportunity to develop, perhaps, similar conventions or practices to those he is offering to this chamber?

**Senator Austin:** Honourable senators, first, to be exact, this is a government bill that was introduced in the House of Commons. It is not accurate to refer to it in that sense as a House of Commons bill.

Second, the House of Commons, so far as we know, has expressed its satisfaction with the bill in its current form. Nothing bars the members of that chamber from dealing with questions of procedure. I am only concerned with what we do in this chamber. If there is concern in that chamber, that is something that will be considered over there.

**Senator Oliver:** Honourable senators, it would have been an advantage to have known of this unique proposal and new convention that the Leader of the Government has announced during second reading in this chamber, and it may be something that they might have wanted to adopt. Is this considered by him to be a normal practice?

**Senator Austin:** Honourable senators, what I said is on the public record. It is public knowledge. It has been discussed. A member of the Conservative Party raised a question in the House of Commons with respect to this undertaking. They are the masters of their procedure, and I think it should be that way. We are the masters of our procedure.

## ORDERS OF THE DAY

### PARLIAMENT OF CANADA ACT

#### BILL TO AMEND—THIRD READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Austin, P.C., seconded by the Honourable Senator Rompkey, P.C., for the third reading of Bill C-4, to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence.

**The Hon. the Speaker:** Honourable senators, when our proceeding was interrupted yesterday, Senator Austin had the floor and was answering questions.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I am prepared to continue with two or three questions, if that is the wish of the chamber.

**Hon. Gerald J. Comeau:** Honourable senators, I would like to continue with the question I was about to ask yesterday.



**Hon. Lowell Murray:** Honourable senators, I want to ask the Leader of the Government in the Senate what on earth the RCMP is doing supplying two red-coated officers to a Liberal nomination meeting in Portneuf, Quebec?

**Senator Austin:** Honourable senators, this is not Question Period. This is for questions on Bill C-4.

**An Hon. Senator:** It is a good question.

**Senator Austin:** However, I will take the question as notice.

**Hon. A. Raynell Andreychuk:** Honourable senators, I am not fast enough on my feet to work that into my questions on Bill C-4.

We have an obligation to ensure that we have the best piece of legislation possible. While we have to respect the House of Commons and how they want to conduct themselves, if we believe that there is something substantially wrong or if there is something that we could substantially improve, even in the House of Commons' portion of the bill, are we not obliged to either bring it to the House of Commons' attention or to act on it?

**Senator Austin:** Honourable senators, it is a very big "if." I do not happen to harbour that belief.

**Senator Andreychuk:** My supplementary is on the question of the consequential amendments. Mr. Reid came before our committee. He indicated that, due to his workload, much of which had to do with the Radwanski matter, he did not go through the bill with the kind of care that he would have liked. He put that on the record very forthrightly. He indicated that the effect of the consequential amendments would be to lessen the transparency and the access to information for the average Canadian, because of the interplay of the two offices in the House of Commons and for ministers. That certainly gave me something to consider in looking at the House of Commons portion of the bill, with which I had not preoccupied myself.

Does the Leader of the Government not think it is important that we take that into account? I know that he put on the record that he thinks it is not that consequential, but if we lessen at all the access to information to Canadians, how does this bill improve our transparency?

**Senator Austin:** Honourable senators, I do not believe there is any substantial change in the access to information. I do not refer to the legislation; I refer to the system of legislation, which includes this bill, and which is available to Canadians.

Mr. Reid made it clear that he is concerned with a much larger issue and he wanted to be able to present that issue, and that is that all parliamentary officers should be subject to his Access to Information Act. It is part of his general advocacy, and I do not blame him for it. His role is to advocate.

In this particular case, of course, we will have an entire system of information for the ministry and parliamentary secretaries under an ethics commissioner in that place. The answer I gave yesterday, I think, completely deals with Mr. Reid's questions.

**Senator Andreychuk:** Honourable senators, with respect, in fairness to Mr. Reid, he had two concerns. In reflecting on and getting good legal advice from his office on those portions of the consequential amendments, he felt they would lessen the access to information for the average Canadian. When he first came to the committee to address us, he indicated that he did not know if it was an error, because we do often pass bills and then realize there are unintended consequences, particularly when we are amending other bills. He did not know if it was intentional or not.

The Privy Council said it was intentional. It was at that point that Mr. Reid indicated that he thought, on its face, that access to information was a serious issue at this time, in this atmosphere, in the House, around ministers and around Parliaments and politicians. Access to information is a means for the public to make public office holders accountable to average citizens, however minute those concerns may be. I will submit later in a speech that it is more than minute. He said that it was lessening what the public has today. He went on to say that, although you pointed out the Auditor General and others, there is also the Official Languages Commissioner who is subject to the Access to Information Act. Perhaps I am putting some words into his mouth now, but he said that in light of today's atmosphere, he is rethinking things, and I think we should rethink this: that access to information for all office-holders to do with the offices reporting to Parliament would be in order.

• (1450)

**Senator Austin:** Honourable senators, access to information for all those office-holders who are not members of the ministry has been unchanged by this legislation. This legislation deals with the ministry and certain designated office-holders. These office-holders are members of the executive. Those office-holders, nonetheless, as was pointed out in questioning with Mr. Reid, remained subject to reporting by the ethics commissioner in that house. I saw no issue raised by Mr. Reid save and except his general advocacy, for which, as I say, I do not blame him.

As for the rest of this exchange with Senator Andreychuk, I think we will put it down to debate, and I will await her more fulsome argument.

Honourable senators, I think it is desirable to allow the next speaker to proceed in this debate. I thank honourable senators for their questions.

**The Hon. the Speaker:** Normally I would go to the other side. Senator Bryden is rising to speak, but before he does, I will hear from Senator Kinsella.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I think there is an agreement on both sides that the first speaker after Senator Austin would be the critic on the bill from this side. That is Senator Oliver, who will be ready to speak on Monday. We would like to reserve for him his 45 minutes. However, not wanting to hold up the process, we are happy to yield to Senator Bryden so that the debate can continue.

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, we are agreeable to that course of action. We acknowledge that the 45 minutes is reserved for Senator Oliver on Monday, and that Senator Bryden will now speak and have the usual 15 minutes at this time.

**The Hon. the Speaker:** Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** We will proceed as described.

**Hon. John G. Bryden:** Honourable senators, it is not my intention, nor was it my intention, to debate Senator Austin's speech. Others will do that as well as, or better than, I. My purpose today is to put before you, at this early stage of third reading, an amendment that presents what I believe is an alternative approach to that which is put forward in this bill.

However, before proceeding to do that, I should like to provide a more complete picture of the expert opinion of Professor Gélinas than was presented in Senator Austin's speech yesterday. In Senator Austin's speech yesterday, he stated:

... the Senate has a powerful sanction at its disposal. Under proposed section 20.1, the Senate can simply not deal with the resolution approving the proposed appointment. That clause, as Professor Fabien Gélinas agreed, clearly gives the Senate the last word on the appointment.

Fortunately, that was not Professor Gélinas' last words. In reviewing the transcripts from the hearings of the Rules Committee, which I attended, Professor Gélinas said, in relation to the commitment or undertaking that Senator Austin proposes to make, or has made:

The question would be: Can the commitment, or the undertaking, put on record by the government through the Leader of the Government in the Senate, amount to a constitutional convention? In my view, no, and the answer is quite clear. Convention requires precedent, and in this case we do not have it. Rather, we have a formal undertaking by the government.

A further statement is made by Professor Gilanas:

Our system is clear in that the new government would not be bound by a simple commitment of a previous government. It is a fundamental aspect of our institutions that the newly-elected government would be free to go back on things that

the previous government had said. Frankly, even if the new government were the same political party, I do not believe that the new Prime Minister would be prepared to abide by all of the commitments that were made by the previous government.

Then, on a different point, Senator Austin said to the professor:

... thank you for your evidence this morning. Let me begin by saying that, of course, the rule that no Parliament is bound by a previous Parliament applies to statute, to rules and to conventions. Would you agree?

Professor Gélinas said:

Yes, I would agree with the statement that a Parliament is not bound by a previous Parliament.

On the basis of that, Senator Austin said:

Therefore, statutes passed in previous Parliaments are not binding on the new government.

Quite clearly that is not the case. I am sure Senator Austin simply misspoke, because statutes passed in previous Parliaments are binding on the new government until such time as Parliament changes the statute.

Senator Carstairs also questioned Professor Gilanas:

Let me ask one further question. Do you realistically think that it is possible for a prime minister in the future to not accept this as a precedent? Once it has been done, is it realistic to think that a future prime minister could just simply ignore it and say, "We will not do it this way," despite what the legislation says, in terms of the consultation and the resolution, and that we will simply ignore the precedent of the previous prime minister?

**Mr. Gélinas:** Yes, I think it is possible for a future government to ignore that.

**Senator Carstairs:** Is it likely?

**Mr. Gélinas:** From past experience, yes, it is.

I then asked Professor Gélinas:

... there is reference to the final word being the approval of the appointment by resolution of the Senate.

This is a follow-up on Senator Austin's point that he made yesterday.

I submit that this is not correct that it is the last word because the only sanction is that there would be no resolution of the Senate. If that is so, then under clause 20.2(2), when there is a vacancy — and there would be a vacancy — the Governor in Council can appoint for six months. What is more, the law gives the right to reappoint.



• (1500)

Professor Gélinas answered that question.

The second question was about the last word. Who has the last word under the arrangements? I am grateful for the question because I would like to clarify that, in my view, the last word here is not with the Senate. It seems to me that it is quite possible, under the bill, for the Governor in Council to appoint someone and get the resolution passed in the Senate. In terms of political realities, the last word is actually with the government and not really the Senate. What the Senate can do is stop it. This is a negative power, not a positive power.

Honourable senators, what I would like to do is to get to the task at hand before I run out of time. I would like to move an amendment.

#### MOTION IN AMENDMENT

**Hon. John G. Bryden:** Honourable senators, I move, seconded by the Honourable Senator Sparrow:

That Bill C-4 be not now read a third time but that it be amended,

(a) on page 1, in the English version, by replacing the long title with the following:

“An Act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Counsellor) and other Acts in consequence”;

(b) in clause 2,

(i) on page 1, by replacing lines 8 to 27 with the following:

“20.1 (1) Subject to subsection (2), the Senate shall, by resolution and with the consent of the leaders of all recognized parties in the Senate, appoint a Senate Ethics Counsellor.

(2) If the position of Senate Ethics Counsellor is vacant for 30 sitting days, the Senate shall, by resolution and after consultation with the leaders of all recognized parties in the Senate, appoint a Senate Ethics Counsellor.

20.2 The Senate Ethics Counsellor shall be a member in good standing of the bar of a province or the Chambre des notaires du Québec.

20.3 (1) The Senate Ethics Counsellor holds office during good behaviour for a term of seven years and may be removed for cause, with the consent of the leaders of all recognized parties in the Senate, by resolution of the Senate.

(2) The Senate Ethics Counsellor, on the expiration of a first or subsequent term of office, is eligible to be re-appointed for a further term not exceeding seven years.”,

(ii) on page 2, by deleting lines 1 to 49,

(iii) on page 3,

(A) by deleting lines 1 to 12,

(B) by replacing lines 13 to 18, with the following:

“20.4 (1) The Senate Ethics Counsellor shall assist members of the Senate by providing confidential advice with respect to any code of conduct adopted by the Senate for its members and shall perform the duties and functions assigned to the Senate Ethics Counsellor by the Senate.”, and

(C) by replacing line 43, with the following:

“20.5 (1) The Senate Ethics Counsellor, or any”,

(iv) on page 4, by deleting lines 16 to 24, and

(v) in the English version, by replacing the expression “Senate Ethics Officer” with the expression “Senate Ethics Counsellor” wherever it occurs;

Honourable senators, I am on page 2 of 9 of the amendment. What comes next is what draftsmen have told me is referred to as the concordance, being the part that refers to the other acts and sections to make them consistent with the amendment. With the consent of honourable senators, I will dispense with reading the other pages because they will be printed in the proceedings of today.

I asked whether it was possible for me to have circulated the amendment prior to making my speech, and I was advised by the clerk that it was better to present in the manner that I am doing now and have the officers take charge of the distribution at a proper time. Perhaps His Honour, could determine whether there is consent to proceed in that fashion.

**The Hon. the Speaker:** Honourable senators, we have heard Honourable Senator Bryden in the course of presenting his amendment request leave that the concordance to the substantive amendment be taken as read on the basis that it will be distributed as part of the *Journals of the Senate* tomorrow and perhaps distributed otherwise. Is leave granted to proceed in that way, or do honourable senators wish him to read the concordance?

**Hon. Jack Austin (Leader of the Government):** Is there is a precedent for taking something that needs to be a part of our record as read? In my years in the Senate, I have not known that to be the case. I have known a document to be appended to the day's proceedings, but I wonder whether there is a precedent. If there is no such precedent, I would be happy to give leave to have the entire concordance read. I am not trying to prevent the amendment from being read, but I would like us to conform to our practice.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, would it be satisfactory to the Leader of the Government if we were to agree to give leave and that this would not constitute a precedent?

**Senator Austin:** I have never heard of that kind of precedent, honourable senators. I have never heard that we could create a precedent and say it was not one.

**Hon. Anne C. Cools:** Honourable senators, I would like to thank Senator Bryden.

Our record is an oral record. Moving a motion is an oral experience, and the reporters merely report it. We have no capacity to take documents as read. It is somewhat of a burden, perhaps, for Senator Bryden. I am sure that if he were to read the entire thing, we would listen with great eagerness and support.

**The Hon. the Speaker:** To end this, I do not need to deal with the exchange on precedent, simply because I take it from Senator Cools that leave would not be granted to proceed as suggested. Accordingly, Senator Bryden should continue with his amendment.

**Senator Bryden:** It gives me a great deal of pleasure to proceed in that way. By the way, there will be a test at the end.

Your honour, do I have to start from the beginning?

**The Hon. the Speaker:** It never rains, but it pours.

Senator Bryden, your 15 minutes have expired.

Is leave granted for the Honourable Senator Bryden to continue?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Leave is granted.

• (1510)

**Senator Bryden:** Thank you. I will continue where I left off.

(v) in the English version, by replacing the expression "Senate Ethics Officer" with the expression "Senate Ethics Counsellor" wherever it occurs;

(c) in clause 4, on page 7, by replacing line 8, with the following:

"72.06 For the purposes of sections 20.4,";

(d) in clause 6, on page 11, by replacing lines 37 and 38, with the following:

"(d) the Ethics Commissioner";

(e) in clause 7, on page 12, by replacing lines 7 and 8, with the following:

"any committee or member of either House or the Ethics Commis-";

(f) in clause 8, on page 12,

(i) by replacing lines 14 and 15, with the following:

"(c) with respect to the Senate, the", and

(ii) by replacing lines 28 and 29, with the following:

"Commons, Library of Parliament and office of";

(g) in clause 9, on page 13, by replacing the heading before line 1, with the following:

"SENATE, HOUSE OF COMMONS, LIBRARY OF PARLIAMENT AND OFFICE OF THE ETHICS COMMISSIONER";

(h) in clause 10, on page 13,

(i) by replacing line 7, with the following:

"ment", and

(ii) by replacing lines 14 and 15, with the following:

"Parliament or office of the Ethics Commis-";

(i) in clause 11, on page 13, by replacing lines 21 and 22 with the following:

"brary of Parliament and office of the Ethics Com-";

(j) in clause 12,

(i) on page 13,

(A) by replacing line 30, with the following:

"Parliament", and

(B) by replacing line 36, with the following:

"Parliament", and

(ii) on page 14,

(A) by replacing line 3, with the following:

"ment or",

(B) by replacing lines 6 and 7, with the following:

"of Commons, Library of Parliament or office of the",

(C) by replacing line 12, with the following:

"ment or",

(D) by replacing lines 16 and 17, with the following:

"House of Commons, Library of Parliament or office of",

(E) by replacing lines 25 and 26, with the following:

"mons, Library of Parliament or office of the Ethics",

(F) by replacing line 33, with the following:

"ment or", and



(G) by replacing line 38, with the following:

“Parliament”;

(k) in clause 13,

(i) on page 14, by replacing lines 47 and 48, with the following:

“Commons, Library of Parliament or office of”, and

(ii) on page 15,

(A) by replacing lines 13 and 14, with the following:

“of Parliament or office of the Ethics Commis-”,

(B) by replacing lines 22 and 23, with the following:

“of Parliament or office of the Ethics”, and

(C) by replacing lines 35 and 36, with the following:

“ment or office of the Ethics Com-”;

(l) in clause 14,

(i) on page 15, by replacing lines 43 and 44, with the following:

“brary of Parliament or office of the Ethics Commis-”, and

(ii) on page 16, by replacing lines 6 and 7, with the following:

“Parliament or office of the Ethics Commission-”;

(m) in clause 15,

(i) on page 16,

(A) by replacing lines 14 and 15, with the following:

“House of Commons, Library of Parliament or office of”,

(B) by replacing lines 20 and 21, with the following:

“Library of Parliament or office of the Ethics Commis-”,

(C) by replacing line 29, with the following:

“ment or”,

(D) by replacing lines 34 and 35, with the following:

“House of Commons, Library of Parliament or office of”, and

(E) by replacing lines 41 and 42, with the following:

“brary of Parliament or office of the Ethics Commis-”, and

(ii) on page 17, by replacing line 1 with the following:

“ment or”;

(n) in clause 16, on page 17, by replacing lines 11 and 12, with the following:

“mons, Library of Parliament or office of the Ethics”;

(o) in clause 17, on page 17, by replacing lines 20 and 21, with the following:

“Library of Parliament or office of the Ethics Commis-”;

(p) in clause 18, on page 17, by replacing line 30, with the following:

“ment”;

(q) in clause 25, on page 20, by replacing lines 26 and 27, with the following:

“Library of Parliament or office of the”;

(r) in clause 26, on page 20, by replacing lines 36 and 37, with the following:

“(c.1) the office of the Ethics”;

(s) in clause 27, on page 21, by replacing line 9, with the following:

“Parliament”;

(t) in clause 28, on page 21,

(i) by replacing lines 20 and 21, with the following:

“Library of Parliament or office of the Ethics Commis-”, and

(ii) by replacing lines 28 and 29, with the following:

“Commons, Library of Parliament or office of the”;

(u) in clause 29, on page 22, by replacing lines 14 and 15, with the following:

“Commons, Library of Parliament and office of the Ethics”;

(v) in clause 30, on page 22, by replacing lines 24 and 25, with the following:

“Library of Parliament or office of the Ethics Com-”;

(w) in clause 31, on page 22, by replacing line 33, with the following:

“ment”;

(x) in clause 32, on page 22, by replacing lines 38 and 39, with the following:

“of Parliament or office of the Ethics Commissioner,”;

(y) in clause 33, on page 23,

(i) by replacing line 3, with the following:

“word “or” at the end of paragraph (b), by adding the word “or” at the end of paragraph (c) and”, and

(ii) by replacing lines 6 to 8, with the following:

“(d) the office of the Ethics Commissioner”;

(z) in clause 34, on page 23, by replacing lines 15 to 17, with the following:

“(c.1) the office of the Ethics Commissioner”;

(z.1) in clause 36, on page 24, by replacing lines 11 and 12, with the following:

“Commons, Library of Parliament and office of the”;

(z.2) in clause 37, on page 24,

(i) by replacing line 22, with the following:

“Parliament”, and

(ii) by replacing line 31, with the following:

“ment or”;

(z.3) in clause 38, on page 25, by replacing lines 12 and 13, with the following:

“any committee or member of either House or the Ethics Commis-”;

(z.4) in clause 40,

(i) on page 28,

(A) by replacing lines 4 and 5, with the following:

“communes, à la bibliothèque du Parlement ou”,

(B) by replacing lines 17 and 18, with the following:

“ment ou au commissariat à l'éthique par”.

(C) by replacing lines 28 and 29, with the following:

“House of Commons, Library of Parliament or office of”,

(D) by replacing lines 34 and 35, with the following:

“Library of Parliament or office of the Ethics Commis-”, and

(E) by replacing line 43, with the following:

“ment or”, and

(ii) on page 29,

(A) by replacing lines 2 and 3, with the following:

“House of Commons, Library of Parliament or office of”,

(B) by replacing line 13, with the following:

“ment or”,

(C) by replacing lines 19 and 20, with the following:

“brary of Parliament or office of the Ethics Commis-”,

(D) by replacing line 26, with the following:

“ment or”, and

(E) by replacing lines 38 and 39, with the following:

“Commons, Library of Parliament or office of the Ethics”, and

(iii) on page 30,

(A) by replacing lines 5 and 6, with the following:

“Library of Parliament or office of the Ethics Commis-”,

(B) by replacing lines 20 and 21, with the following:

“Library of Parliament or the office of the”,

(C) by replacing lines 25 and 26, with the following:

“Commons, the Library of Parliament or the”,

(D) by replacing lines 36 and 37, with the following:

“Commons, the Library of Parliament or the”, and

(E) by replacing lines 42 and 43, with the following:

“Parliament or the office of the Ethics Commis-”; and



(z.5) in clause 41, on page 31,

(i) by replacing lines 23 and 24, with the following:

"Commons, Library of Parliament and office of the", and

(ii) by replacing lines 43 and 44, with the following:

"Commons, Library of Parliament and office of the".

• (1520)

**The Hon. the Speaker:** Honourable senators, this is an important piece of our business today. I request your leave for me to have this motion reproduced and distributed before I put it to the house. I am told that will take between 10 and 15 minutes.

Honourable senators, may I have leave to suspend the sitting for that period of time so that photocopies of the amendment can be made in both French and English and then be distributed so that you will have them on your desks when I put the motion?

**Hon. Senators:** Agreed.

The sitting of the Senate was suspended.

• (1540)

The sitting of the Senate was resumed.

**The Hon. the Speaker:** Honourable senators, I will now seek to put the amendment moved by Senator Bryden.

[Translation]

**The Hon. the Speaker:** It is moved by the Honourable Senator Bryden, seconded by the Honourable Senator Cools:

That Bill C-4 be not now read a third time, but that it be amended

(a) on page —

**Hon. Senators:** Dispense.

[English]

**The Hon. the Speaker:** Is it agreed that I dispense with the reading of the motion in amendment, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** The Honourable Senator Bryden has the floor. I know a senator wishes to see if he will take a question.

**Senator Cools:** Honourable senators, I am trying to assist the Speaker. Before we go into questions, because it was such a long amendment and because it took so much time to read, we should allow Senator Bryden an opportunity to explain it.

[ Senator Bryden ]

**Senator Bryden:** Honourable senators, when the sitting was suspended, I was speaking and I had had my time extended by unanimous consent. Is that not where we are?

**Senator Cools:** That is where we are.

**Senator Bryden:** Honourable senators, it is my intention to go through the first part of the amendment, for want of a better term the substance sections of the amendment. I will attempt to explain what I am doing and why this amendment is different from both the bill we have before us and the proposal made by the Leader of the Government in the Senate.

First, the title has been changed. It is called, "An Act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Counsellor)." I did not choose the words "ethics counsellor" simply because I thought it was a nicer name. There are significant differences between the connotation of the word "counsellor" and the word "officer."

In my opinion, the word "counsellor" is more appropriate to the issues that anyone who helps us in this place would be dealing with than that of an officer. The word "officer" is sort of like the word "commissioner". Officers often carry badges. Officers do investigations. Officers lay complaints. In some instances, depending upon where, the term "officer" implies enforcement. "Officer" implies an office.

Senator Austin has said that Bill C-4 creates a framework for the structure, for the institution. I know I am quoting him when I say that. This bill creates a framework. It does not appoint officers. It does not make the rules. It creates a framework for the institution. That framework, put together in the manner that is set out in Bill C-4, is an institution that is outside the Senate as we know it. It is an institution that is independent, in the same manner as the Auditor General. The Auditor General is not inside Parliament. She reports to Parliament but she operates her office totally outside and independent of it.

The purpose of using the word "counsellor" is to indicate that what we are looking for in this approach is to have this chamber be able to preserve within its framework the ability to have an ethics counsellor who can assist senators in following the codes, in doing all of the things that will be demanded of us as senators and to determine what type of rules we will have. It will be an assisting role, a counselling role. It will not be a separate, independent body that is apart from the Senate.

• (1550)

I do not want to use any names, but a number of senators raised this issue almost every time they spoke, namely, that when the amendment was introduced last fall, it gave the Senate the right, on whim, to hire and fire our ethics officer. On page 1 of the bill, clause 2 would be amended with proposed clause 20.1(1), which states:

Subject to subsection (2), the Senate shall, by resolution and with the consent of the leaders of all recognized leaders of parties in the Senate, appoint a Senate Ethics Counsellor.

The first subclause, therefore, gives the opportunity for all recognized parties to consent to the person who would be appointed. That appointment is then made by resolution after consent and not after consultation.

Subclause (2) is necessary because, being an old labour lawyer, there must be a tie breaker. We need to be able to stop people ragging the puck or not being able to make a decision. Subclause (2) states:

If the position of Senate Ethics Counsellor is vacant for 30 sitting days —

On average the Senate sits three days a week, which would translate into about 10 weeks. If we are unable to obtain agreement so that we have a consent situation in making our appointment:

— the Senate shall, by resolution and after consultation with the leaders of all recognized parties in the Senate, appoint a Senate Ethics Counsellor.

That subclause says that if we cannot get one that we can agree upon unanimously, then we do not do it within the 10-week period. By ordinary resolution, after consulting with the parties — and usually it will be the government that will put forward a motion — this person will be the ethics counsellor and the motion will be treated like any other motion before the Senate. That could be done.

Clause 20.2 of the amendment states:

The Senate Ethics Counsellor shall be a member in good standing of the bar of a province or the Chambre des notaires du Québec.

The reason for that is that our counsellor will be someone with whom we will want to be absolutely open and frank in relation, for example, to our assets, to our positions on any boards, to our involvement in university boards of regents, or whatever it is. The reason for the use of lawyers or members of the bar is that this puts senators and the members of the bar in a position such that any communication between us is a matter of solicitor-client privilege. Even if that communication were to occur outside this chamber, it would still involve solicitor-client privilege, although it would not necessarily have immunity if it were done within.

If there is a concern, then there will be no question about whether there is a constitutional challenge under the existing bill where someone might challenge the right of the Senate or the Governor in Council to grant immunity to the ethics counsellor. The Senate's immunity and the immunity of senators exist now. That is why it is there. I am not attempting to make work for lawyers.

I want to note as well that being a "member of the bar" would include judges and retired judges. There is a large pool of very qualified people who would be available to act as confidential counsellors to our Senate and to our senators.

Clause 20.3(1) of the amendment goes to the other end of the criticism that was made about the amendment we passed last November, which said simply that the Senate shall appoint an ethics officer. Clause 20.3(1) states:

The Senate Ethics Counsellor holds office during good behaviour for a term of seven years and may be removed for cause, with the consent of the leaders of all recognized parties in the Senate, by resolution of the Senate.

The Senate will not be able to fire the ethics counsellor on a whim. The ethics counsellor is appointed for a fixed term and can be removed for cause, but only with the consent of the leaders of all recognized parties in the Senate, and then only by resolution. This is the other side of the issue that was raised by Senator Lynch-Staunton yesterday. We were attempting to make it very difficult to remove our officer. We would require the concurrence of all parties and then a resolution, in addition to the fact that there would be just cause.

Clause 20.3(2) of the amendment states:

The Senate Ethics Counsellor, on the expiration of a first or subsequent term of office, is eligible to be re-appointed for a further term not exceeding seven years.

That is not dissimilar from the term that is indicated in the bill.

Clause 20.4(1) of the amendment states:

The Senate Ethics Counsellor shall assist members of the Senate by providing confidential advice with respect to any code of conduct adopted by the Senate for its members and shall perform the duties and functions assigned to the Senate Ethics Counsellor by the Senate....

That is what was anticipated by the current bill. A committee will probably set out the terms of conduct and what the ethics counsellor will do.

Remember, honourable senators, that this ethics counsellor is part of the Senate. He or she is not outside our house. That person is part of our house and is protected by the provisions that are in this bill. I say "bill" because this is a bill. I have moved an amendment to a bill and, if adopted, it will become part of the legislation, not an undertaking or something else. It provides the opportunity for the Senate explore the range of possibilities of the system, —including the registry that applies to the upper chamber in Westminster, where members of the House of Lords are required to register and divulge their interests. It is all there. That is what they are required to do. The ethics counsellor would be able to assist with that, check it, keep it up to date and discuss it.

There is a way of being able to objectively select an ethics counsellor. Alberta set a precedent by striking a special committee. It indicates a job description, takes applications and then deals with it. This precedent allows us the complete freedom, as is proposed in the bill, to determine the terms and conditions of the ethics counsellor we hire.



One of the fundamental differences is that to have this counsellor in the Senate as described here, we do not need another bureaucracy. We have the office. He or she does not need to have the status of a deputy minister. He does not need clerks and the like. These positions are created and — to use the words of another witness before the Rules Committee, Professor Sutherland — those roles as officers of Parliament take on lives of their own. When the Auditor General's office was first put in place, it was not foreseen that it would grow in size and range of investigation that it has taken unto itself.

• (1600)

That sort of thing is not unique. I want to make another quick reference. I know I am probably trying your patience — but that would not be the first time. I appreciate the indulgence of honourable senators.

In the *Canadian Parliamentary Review*, in the spring of 2004, there is an article by David E. Smith, entitled "A Question of Trust: Parliamentary Democracy in Canada Today." He says this about officers of Parliament:

Officers of Parliament are not a new phenomenon; Norman wrote extensively about two of them, the Auditor General and the Chief Electoral Officer. The difference between then and now is that where once seen as servants of Parliament, they are evolving into its masters. This is a claim, I realize, with potential for controversy. Nonetheless, what is clear is that the officers are in the process of becoming the integrity branch of government, what Bruce Ackerman of Yale University has labelled its fourth branch.

Honourable senators, that sums up, pretty well, my position on where we are headed under Bill C-4.

The ethics counsellor will accomplish what needs to be done, objectively and helpfully, for this autonomous and independent chamber, which has been that way for 137 years, without creating a new creature that, once set on its feet and started to run, there is some question as to where it will go, as there was with some of the others.

If we are the place that holds up this ethics bill, then the press will say unkind things about us. People will be upset with us. However, if they are not upset with us about this, it will be about something else.

However, not everyone, not every press, believes that what we did last fall, for example, or what this amendment would do is a bad thing.

I should like to quote briefly from an editorial that appeared last November in the *Ottawa Citizen*, right after our debate over Bill C-34. The headline reads: "Sober second thinkers: Recent criticism of the Senate's delay of legislation is unfair." I quote:

The Senate is the frequent object of derision by those who think it an anachronism. We respectfully disagree. At the time of Confederation, the Senate was intended to protect minorities against any majority tyranny of the House of Commons, and look after the interests of the provinces. By and large, it does its job well.

Take the latest shellacking the Senate has received for blocking three pieces of legislation: Bill C-34, to establish separate ethics offices for the Senate and Commons; Bill C-10B to amend the Criminal Code to increase fines and jail sentences for people convicted of cruelty to animals; and Bill C-49 to move up the creation of seven new federal ridings to April 1, 2004. With the Commons having prorogued this week, these bills die. The senators are accused of being self-serving by defying both Prime Minister Jean Chrétien, who wanted the ethics offices set up before he steps down, and soon-to-be prime minister Paul Martin, who wanted the new ridings in time for a spring election.

Did any of the critics read the legislation in question? Take Bill C-34, for example....

In this regard, the Senate is not being unreasonable in amending the bill to require that it, and not the Prime Minister's Office, be responsible for appointing an ethics officer. There's also a constitutional principle involved: Crown officials should not have oversight authority on institutions of Parliament, because that intrudes on the hard-won tradition of parliamentary independence.

In my point of view, there is never a good time for a member of the party that is in government to disagree, ultimately, with a position of his party. Obviously, I find myself in that position today. It is probably most inappropriate at this time, because of all the election rumours and so on. As someone said, there are wars and rumours of wars.

The last time we were under the gun, in a sense, was with the clarity bill. Every time we get into this situation, the rights of the Senate seem to get diminished by just a little bit. In the clarity bill, we were no longer part of the decision-making process of Parliament but we became consultants to the House of Commons who made the decision.

I ultimately supported that bill because I bought the argument that, if the bill were not passed just then, it would go back into the cauldron that is the House of Commons and it would bubble around there for such a long time that we could very well lose the country because we did not have that bill and it would be our fault. As it turns out, significant people are now saying in Quebec — the place we were trying to protect by the clarity bill — that the clarity bill is useless. For that, we diminished our legislative powers.

In this instance, I have the reputation — I have been beaten over the head with it for the last week. I am asked by new senators, "How do you handle this party loyalty, loyalty to the team, and loyalty to your conscience?" I have a general rule — though sometimes people forget my little bit of a preamble: My rule is that except on issues of significant principle — for example, capital punishment or abortion — except for instances like that, within the system, in caucus, in trying to twist the arm of ministers, the term that has been used is "You fight like hell." Fight within the system to try to improve it, to change what you

think is wrong. However, ultimately, if a well-considered majority opinion is put forward, then normally it is not my role to disagree with the well-considered opinion of the majority. I will have done my best and, for the most part, that is the way it works — except on issues of fundamental principle.

• (1610)

The defence of this institution and its rights, its independence and its autonomy is a matter of fundamental principle to me. If I am not prepared to stand up for the institution of which I am a part, and to which I feel I have made a significant contribution, and through which I believe I have made a significant contribution to my country, to my province, to my region and, I hope, to others, then what am I prepared to stand up for?

Is now the time? I am reminded of a saying, and I cannot remember who said it: If not us, then who? If not now, then when?

We will all make our best decision, using our judgment and our conscience. I want to quote to you from a senator, Senator Jane Cordy. This may hurt my tough reputation, because it comes from *Homemakers* magazine, which my wife subscribes to. I do not read it on a regular basis. I am sure Senator Cordy did not think, when she said this, that it would end up being quoted on the floor of the Senate. I wish she were here. In this magazine there are little things that they do; they have their claim to fame, their big break, their best-kept secret; and at the bottom is "Words of Wisdom." This is what Senator Cordy said: "When you make decisions, whether personal or political, you always have to be able to look yourself in the mirror and say, 'I have done the right thing.'"

If we all can do that, when this is over, then I will be very happy.

**Hon. Gérald-A. Beaudoin:** Honourable senators, I thank Senator Bryden for a very good explanation of his amendment.

At first he said that we either follow the convention route or we follow the legislation route. By proposing an amendment, he obviously selected the legislation route. It is a choice. The convention route, of course, is also valuable, but in law a convention may be overturned and may be even set aside without any legislation at all.

If we follow the legislation route that he is suggesting — and this perhaps answers the question of my colleague Senator Comeau — we know that legislation in one Parliament is binding on the next Parliament, unless the next Parliament legislates to amend the precedent legislation. It is possible, of course. We have often done that. However, that is one thing. If it is only a convention, we need a precedent, et cetera, and the remedy is not legislative. The remedy is purely a political question.

I should like to know from the honourable senator, now that he is proposing an amendment, whether he has set aside the proposition of Senator Austin and is selecting another way to arrive at his objective?

**Senator Bryden:** The answer is yes. Despite the Herculean effort that Senator Austin has put forth, to use my Scottish mother's expression, to make a silk purse out of a sow's ear, the fact is that without a legislative amendment the flaws that are in Bill C-4 will remain in Bill C-4. Attempts to fix the flaws by undertakings, by trying to establish some sort of pattern, will not work. In every instance, if someone wishes to ignore the undertakings, that is all they will have to do. They do not need to do anything else. In order to change a statute, it has to go through many systems. It has to go through the House of Commons and it has to go through us.

If there is a conflict between a regulation, a rule, or even a convention and the clear words of a statute, the clear words of the statute trump every time.

**Senator Beaudoin:** Honourable senators, in our jurisprudence, the courts interpret legislation. However, the courts may recognize a convention only, and it is not binding in the sense that if it is violated for one reason or another, the remedy is legislative. It is political. It is not a legal remedy. Do we agree on this?

**Senator Bryden:** Yes, we do. I want to make one other comment. It is quite clear from the expert testimony that we received that there is an example of creating a constitutional convention with one situation. However, the only examples that exist are in situations where commonwealths get their independence from the mother country. It is all at the constitutional level. The evidence could not have been clearer that what is being proposed here by Senator Austin is not a convention. Indeed, it was indicated clearly that in order for something to become a precedent, I think I used the expression, "one swallow does not make a summer," if one undertaking were to go on for seven, eight, nine or ten Parliaments, it might then be more difficult to change it. However, it would not at any time be impossible to pass a statute to overcome it.

**Hon. David P. Smith:** Honourable senators, I have not had a chance to go through the amendment clause by clause, but is it fair for me to conclude that all the clauses deal with the issue of how the appointment is made?

**Senator Bryden:** Honourable senators, they do not. That is exactly what the first clause deals with. The appointment will be made by resolution, and if that does not work then it is done by regular resolution. That section deals with the appointment.

**Senator Smith:** Let us stay with that for a second. The honourable senator said in his speech that the government has the last word on the appointment. Would it be fair to characterize the procedure as set out in this bill as similar to a double veto in that no one can assume the office until two things have happened: first, that a resolution of a majority of the Senate has approved of the person, and second, that the Governor in Council has appointed the person?

Is it not fair to say that that is a double veto?



• (1620)

I am not asking Senator Cools; I am asking Senator Bryden.

**Senator Bryden:** The statute says that the Governor in Council shall appoint a senate ethics officer. That is what the statute says. Senator Austin says in his undertaking, if I have it right this time, that no such appointment will be made until the Senate, through him, recommends the name of the person to be appointed. That is what I said last time. What the Honourable Senator Smith said is correct. That is how that is done.

**Senator Smith:** Given the fact that the bill says “after approval of the appointment by resolution of the Senate,” you could literally argue that that is the last word because it says “after.” I am not suggesting that either has the last word, because both events must occur for it to happen, and that is the whole concept of a double veto. Do you not think that that is a fair characterization?

**Senator Bryden:** No, I do not, and nor did our experts, which is why I went through in some detail the actual evidence that was given. They said that the last word lies with the government. Having a negative veto is not a very terrific sanction because all it does is allow you to refuse to do something. You cannot actively do something.

The other point is that if you simply exercise the negative veto and not agree to appoint somebody, just refuse to do it, then the position remains vacant. I do not know how long the government would be prepared to leave it vacant — a week, six months, six years — but under the bill, if the position of ethics officer is vacant, the Governor in Council, i.e., the Prime Minister's office, has the right to appoint for six months. Let us remember that every time we say “Governor in Council,” we are really talking about the Prime Minister's office. The bill also is clear that they have the right to reappoint, and there is no indication whatsoever that they can only exercise the six-month appointment once. There is nothing to prevent them reappointing that position and again reappointing that position, presumably until they get their own way.

**Senator Smith:** If that is your judgment on what constitutes the last word, we have to agree to disagree, but I would put to you that it is a double veto.

You also said that the government can ram the appointment through the Senate. I think that was the verb that was used. Would you not agree that the culture here is fundamentally different from the other place? The clearest evidence we have that the government cannot just ram it through this place is the fact that your amendment last November carried, notwithstanding the fact that the government did want to see the bill in its present form passed. The whip was on, so to speak, for lack of a better word. I think 21 members of the government side of the house voted to support your amendment. Is that not pretty clear evidence that the culture of this place is such that if people feel strongly and want to exercise the prerogatives that the bill would

give them, in fact they would veto someone with whom they were not happy? Is that not that a fair characterization?

**Senator Bryden:** No. The fact is that after long consideration, we had the bill before us in draft form for a year. We debated it passionately and thoroughly, and the result that occurred was the result that said the honourable senator has mentioned. Let me finish, if I may. The honourable senator said that he would have brief questions; I did not agree to brief answers.

If we were so successful in doing that, why are we now reconsidering it? I know the technical reason is that we brought the bill forward, and we had to bring it forward out of the House of Commons because that is the way it was left there the last time. However, the government has had since the middle of November last year to take into account the will of the Senate, as expressed last November. They had the right to introduce a bill that took account of that will. They chose not to do that, and so we have the same situation back here again.

Maybe this time, Senator Smith — maybe this time, the government side will be able to defeat the amendment. If that is the way we play, I would like to go back to the time when we used to flip quarters. If you flipped and called heads and the big guy you were flipping against got tails, he would say, “It is two out of three.” Why not do two out of three? If you win this time, then bring it back and we will do the rubber.

**Senator Smith:** In the honourable senator's amendment, he requires that someone has to be a member of the bar in order to be eligible. Would that mean that when Senator Graham retires in a month or so, he would be ineligible, and likewise other former distinguished senators such as Senators Stewart or Wilson or MacEachen, they could not do it? Former Governors General such as Massey, Vanier, Sauvier, Schreyer and LeBlanc were not lawyers, so they would be ineligible. Ethical parliamentarians such as Stanley Knolls or Tommy Douglas, were they alive and well and up to it, would be ineligible. Would the honourable senator throw them out and say, “Only lawyers need apply”?

I happen to be a lawyer, but I do not think it is such sacred ground upon which we tread that only we can come up with decisions that really have more to do with common sense and a sense of fairness and justice than anything else.

**Senator Bryden:** I thought I had given that. The reason for putting the provision in is that the word “counsellor” is operative. This individual is to be a counsellor to the Senate and a counsellor to individual senators. The only reason for saying in the legislation that that counsellor should be a member of the bar is to be able to preserve the solicitor-client privilege between senators and their counsellor, which would protect them and their families, and all of these things in relation to what they divulge and what they discuss with their counsellor.

Indeed, I do not know that that is the only way to do it. It was the only way I could think of doing it in a short paragraph. If the honourable senator wishes to make an amendment to that part which would include other than lawyers, then I am sure the Senate would be prepared to consider it.

**Senator Smith:** I can think of someone, but I am not about to volunteer their name.

The honourable senator has said that doing this by resolution does not necessarily mean that we can hire and fire on a whim, and act unilaterally and arbitrarily. I thought he was referring to only dismissing with the consent of the leaders of the other parties. I do not see that in here.

**Senator Bryden:** It is in 20.3 (1):

The Senate Ethics Counsellor holds office during good behaviour for a term of seven years and may be removed for cause, with the consent of the leaders of all recognized parties in the Senate, by resolution of the Senate.

**Senator Smith:** It does not say that.

• (1630)

**Senator Bryden:** What I just read into the record is what I have just moved in amendment. I apologize, Senator Smith. I did not proofread what was being photocopied. What I said, Senator Smith, is this:

20.3(1) The Senate Ethics Counsellor holds office during good behaviour for a term of seven years and may be removed for cause, with the consent of the leaders of all recognized parties in the Senate, by resolution of the Senate.

**Senator Smith:** I would have to look at the version the honourable senator is referring to. I will let other senators have a go.

**Hon. Gerald J. Comeau:** Honourable senators, for the record, proposed new clause 20.3(1) says, in French:

[Translation]

[...] avec le consentement des chefs des partis reconnus au Sénat.

So, French being an official language,

[English]

This makes it official. At least one of the two versions is correct.

My question is on the subject of clause 20.1(1), relative to 20.1(2). Basically, clause 20.1(1) refers to the consent of the leaders of all recognized parties.

Clause 20.1(2) says:

If the position of Senate Ethics Counsellor is vacant for 30 sitting days, the Senate shall, by resolution and after consultation with the leaders...

If under clause 20.1(1) a name were presented to our leader, say, on day 29 but the recommendation was found to be unacceptable to this side, would not clause 20.1(2) kick in on day 30, whereby the process would revert to one of consultation rather than consent? In other words, would that nullify what the honourable senator is trying to accomplish, which is to get the consent of both sides? It would seem to me that, on day 30, we would revert back to the intent of the bill as it stands now, that it would be strictly a government appointment?

**Senator Bryden:** The answer to that is, yes, but for a reason. There are almost always trade-offs. The attempt is made in asking that the first process that is followed is to get the consent of the leaders of the recognized parties. There are 30 sitting days, which means that there are probably about 10 weeks to do that, a little more because of the breaks.

Presumably, within that period of time, the effort would be made. What we are really trying to do is get a consensus over that period of time as to who that person should be.

However, as Senator Lynch-Staunton said yesterday, if we cannot get the consent of a leader of, say, a small, registered party, then what we have here is a fall-back position. We must face the public, face the Senate, with a credible proposition. That is the reason for 20.1(2). The process would revert to a regular motion, after consultation, to prevent a roadblock.

The government would probably introduce the motion. The person's name would be introduced on the motion. The matter would be debated and voted on in the normal fashion. That would be the process by which the person would be chosen.

However, we would first be given the opportunity in this place to consent to who our ethics officer would be.

Some of the literature indicates that unless that type of concurrence is built into an organization, it is very difficult to have these types of positions work well for everyone inside. This would be a first test for us.

**Hon. Lowell Murray:** Honourable senators, I had not intended to ask a question on this item, but now that I am back on the Order Paper, perhaps the honourable senator would explain his clause 20.2, which reads:

The Senate Ethics Counsellor shall be a member in good standing of the bar of a province or the Chambre des notaires du Québec.

My friend explained why, in his opinion, someone with legal training was needed for the position of Senate ethics counsellor for the Senate and for honourable senators. Has it been explained to the honourable senator what the training of a professional notary in Quebec is that would qualify him or her in the same sense that a member of the bar of Quebec would be qualified?



**Senator Bryden:** It is my understanding that, for the purposes that I really am most interested in here — which is the ability of the counsellor to be able to give advice and receive information from his or her client — the solicitor-client privilege that we refer to as solicitor-client privilege also applies in Quebec under the terminology that I have used there. If I am wrong, I stand to be corrected, and we would replace that reference with whatever the correct one is.

**Senator Murray:** I have no way of knowing whether my friend is right or wrong. I presume there is a professional privilege that obtains between a notary and a client, but is that all there is to it?

The argument that my friend made earlier was that the legal training of a member of the bar was necessary, since the person would be a counsellor.

I defer to friends from Quebec to tell us whether a notary is equally qualified to be a counsellor on matters of conflict of interest. Perhaps an honourable senator from Quebec might explain that to me.

**Senator Bryden:** I can answer, as far as I can. The words were chosen basically with the knowledge and the recommendation of our legal advisers in the Senate that, if that term were used, it would provide the equivalent solicitor-client privilege of other members of the bar.

I want to be clear. Perhaps I did not make this clear when responding to questions from Senator Smith. The issue is not what a great person certain people are. For example, it is not an issue of whether, say, Senator Al Graham would be able to give us good advice. The issue is that we want to be in a position that the exchange between senators and their counsellor is privileged information.

An individual may be a fine professor, or a great carpenter, but his or her exchange with us would not be a privileged communication, in the sense that the courts or anyone else might recognize it.

**Senator Beaudoin:** Honourable senators, if I may answer the question for Quebec.

**Senator LeBreton:** You cannot.

**Senator Beaudoin:** It is privilege.

**Hon. Nick G. Sibbeston:** Honourable senators, would Senator Bryden expound on the issue of solicitor-client privilege? I understand that, in the normal course of business, when a person engages a solicitor, there is a relation struck up that involves solicitor-client privilege.

• (1640)

If we were to hire a lawyer who would be an employee of the Senate, would the solicitor-client relationship automatically come into effect? Does this relationship come into existence the moment you enter a lawyer's office? What is so magical or sacrosanct about this relationship?

**Senator Bryden:** There are two parts to the answer. One is that the terms of employment of the counsellor and his role will be specified by the appropriate committee, as provided for in the bill. We cannot do it all on the floor of this chamber.

Speaking off the top of my head, I will say that one of the principal functions of this person will be to act as counsellor to individual senators in their compliance with the code of conduct. That would be absolutely sufficient to create solicitor-client privilege; that is, what you would tell me, if I were the counsellor, is between you and me. I would be in violation of my responsibility at the bar, as a lawyer, if I divulged that information to anyone without your permission, and vice versa.

**Senator Sibbeston:** Honourable senators, I appreciate that a solicitor-client relationship is in respect to legal matters, in respect to the law, as it were. In this case, since the counsellor is dealing foremost with matters of ethics, does that not change the situation somewhat? Would we necessarily have to strike a contractual relationship?

I wonder what may need to be done in order to enter a relationship that meets the test of a solicitor-client relationship. Although the ethics councillor will be a lawyer, the solicitor-client relationship may not automatically apply because he will be engaged primarily as an ethics counsellor.

Has Senator Bryden thought about whether there may be provision for the special relationship with an ethics counsellor that he is seeking?

**Senator Bryden:** It might indeed be helpful to do that. The person will be called an ethics counsellor, but under the code the counsellor will be giving advice on our holdings in publicly owned corporations in Canada, on serving on boards of public corporations and on significant amounts of funds earned outside. It is not ethics in the sense of living a good life. We are talking about conflicts of interest between the way we function as senators and our lives outside the Senate.

We should certainly look at the House of Lords model at Westminster. They are required to register the organizations of which they are a part in order to determine whether there is an opportunity for conflict of interest. They must disclose the source of their principal income. They are not paid to be members of the House of Lords, so they are allowed to earn income in other ways. Their disclosure is extremely significant.

I was required to talk to an ethics counsellor when I was Deputy Minister of Justice in New Brunswick. I had to fill out forms indicating whether there were things in my life that would put me in conflict with the work I was doing. I did not know whether certain of the activities in which I participated fit into the categories listed. Therefore, I spoke to the judge and if, in his opinion and mine, they did, they were listed. However, if I raised something that did not fit into the categories, the fact that I had raised it did not cause it to become part of the public domain because that was a conversation between him and me.

I return to the point that it is difficult to include it all in less than a page. I attempted to create a situation in which there is not only one option. Without creating an entirely new bureaucracy, this provision provides an option for the Senate to do the right thing with regard to the desire that we all uphold the ethics of parliamentarians.

We do not have the same issues as people in the other place — cabinet ministers and so on. We do not make contracts; we do not negotiate bank loans; we do not influence the awarding of contracts and we do not look at bids. One of our main functions is to review legislation. We represent minorities and regional interests. We conduct studies and make recommendations. Someone said that we do not make decisions, although we do make decisions on legislation.

The real question that we will have to address, I believe, although the code of conduct is currently under construction, is whether there is anything in our personal lives — our holdings; the way we make our income; our connections, be they remote connections through family or whatever — that would impede our ability to act in the best interests of Canada and Canadians in the performance of our legislative duty. If there is, we do not necessarily have to quit being senators. The counsellor may advise that we cannot sit on a particular committee or chair a particular committee. Indeed, we may have to make a choice if we own a big chunk of something.

Those are the issues we must face. The Senate is not the House of Commons, as was pointed out by Senator Smith, and we are not the executive. We are not cabinet; we are not cabinet ministers; we are not office-holders. However, the ethics officer part of Bill C-4 was grafted from a bill designed to look after what occurs in the executive in the House of Commons.

**The Hon. the Speaker:** Honourable senators, I know other senators wish to speak to Bill C-4. Senator Bryden could modify his motion, if necessary, with unanimous consent. I would like to suggest that he carefully compare the signed copy of his motion in English and in French with what he read into the record and that, while he is doing so, we proceed with other senators who I know wish to speak to Bill C-4.

Is that suggestion acceptable, honourable senators? We could then return to Senator Bryden, although perhaps not for long, as he has been on his feet for 95 minutes and must be getting short of breath.

If we could proceed that way, Senator Bryden could look at his motion in amendment, and I will recognize him again at an appropriate time if he wishes to seek leave to vary what he has submitted as his motion.

**Hon. Senators:** Agreed.

• (1650)

**Senator Bryden:** Is what Your Honour said, to make the paper concur with what I said?

**The Hon. the Speaker:** Yes.

**Senator Bryden:** I would be perfectly happy to stop, if there is concurrence to do that. I would then carry that through in the proper way, and then I would be done.

Honourable senators can tell I am getting a little hoarse after 95 minutes. I guess I am showing my age.

Might I do that as opposed to coming back later, Your Honour?

**The Hon. the Speaker:** Does the honourable senator want me to suspend the proceedings while he does that?

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, I understand Senator Bryden wants the debate to go on while he corrects the text to his satisfaction. He would then consider the amendment tabled and we would be able to continue with the debate.

**Senator Cools:** Honourable senators, I noticed the discrepancy. The fact of the matter is that Senator Bryden read what he wanted into the record. What he said verbally is what he wanted. Where it is slightly different is on some of the copies that were put aside. There is no real need to vary the motion. No leave is needed. All that is needed is to correct for the record the document that was circulated.

**The Hon. the Speaker:** Honourable senators, that is what I had intended to suggest, and it was misinterpreted. I had intended to suggest precisely what Senator Bryden got up to say, which was reinterpreted by Senator Rompkey.

I believe that Senator Bryden and I are *ad idem*.

I will now recognize Senator Gill.

**Senator Bryden:** If I go to see someone else, I can adjust the paper in accordance with what is on the record.

**The Hon. the Speaker:** Honourable senators, let us start from the beginning.

What I am suggesting to honourable senators is that during an exchange that Senator Bryden had with Senator Smith, it came out that it is possible that the signed version of the motion — and I was reading from the French version and not the English version — differs from what Senator Bryden read into the record. Senator Smith drew the attention of Senator Bryden to something in the motion, and the two disagreed as to what it was.



I have reason to believe, from information I have obtained from the Table, that I know what has happened here. What I am suggesting is that Senator Bryden can take some time while other honourable senators are debating Bill C-4 to examine what it is that he signed and gave me, in order to ensure that it is what he wanted submitted as the motion in amendment. I will see Senator Bryden later, even though he has spoken, to give him an opportunity to request leave to modify this motion in amendment to something else that conforms to what it is that he wants this to be, if it is not already what he wants it to be. Is that clear?

**Senator Bryden:** Yes, that is fine.

[Translation]

**Hon. Aurélien Gill:** Honourable senators, I too would like to make my humble contribution to this debate. We are all following very closely the political affairs of this country. We are citizens and we are senators.

[English]

Sometimes these events create situations that are new and completely different from those that existed before. When that happens, it is not only proper but also imperative that we adapt rapidly to the new reality.

[Translation]

This is now the year 2004, not 2003; and no one could have predicted the intensity of this debate with respect to the government's integrity. We are faced with what has become an urgent duty: the need to energetically promote transparency in government affairs and to recognize the absolute necessity to review our processes from the points of view of rigour, ethics, clarity and justice. The questions raised cannot remain unanswered, without follow-up and without consequences.

[English]

In 2003, along with most of my honourable colleagues, I voted for an amendment to the ethics bill. At the time, there were good and valid reasons for opposing the bill with an amendment. I do not need to remind honourable senators that the situation has changed.

[Translation]

It is fundamental, in my opinion, for the senators to be in a position to react promptly, indeed to change their minds, about this new situation. The situation absolutely requires it. It would have been wrong for us to close our eyes to a reality that has become a cause of major concern for all Canadians. More than ever, rigour and integrity need to be affirmed, assured and provided with a framework.

The Senate's efforts to improve this bill, well intentioned as they might be, would surely be misinterpreted by the public and perceived as a kind of obstruction.

[The Hon. the Speaker]

[English]

For these reasons, I do not hesitate to alter the position I took in 2003. I am now in support of the ethics bill and believe that we must support it without reservation for the public good.

[Translation]

It is, moreover, our role to get what is essential out of all the background noise. It is not always apparent or obvious. When it comes to ethics, what is essential has become very apparent. It seems to me that there must be no humming and hawing about this. The Senate, I am convinced, must clearly and firmly state its support for the government's efforts to provide itself immediately with an ethics adviser and a code of ethics. This is a necessity, given the present atmosphere of distrust and discontent among the public toward our institution.

**Hon. Lise Bacon:** Honourable senators, I would like to address Bill C-4, which provides for the appointment of a Senate ethics officer. Last fall, I supported an amendment to then Bill C-34. My decision was based on a number of reasons, but was primarily dictated by two main issues. I was convinced that the Senate's independence from the executive branch deserved particular attention and that the immunity from civil and criminal proceedings enjoyed by the ethics officer would put him above the law and give him a power that was too broad. The comments made in this regard by some of my colleagues were very eloquent and they played a critical role in convincing me that the bill should be amended. However, after thinking about it for a long time, after consulting several of my colleagues, and after hearing the formal commitments made by our leader in the Senate, I must say that I have reviewed my initial position.

I want to be clear. The conclusion that I have reached is based on my reflection, my research and my consultations. It is not related to the political situation. A key element in my reflection was the widespread concern in the country about ethical principles and values. In these times, when the need for integrity and ethics is apparent, Canadians are hoping more than ever before that their leaders will display greater transparency and integrity. This explains the great attention paid by the government to these issues and the numerous commitments that it is making to ensure the implementation of measures that will promote ethics in government. The government wants to act quickly and put integrity at the forefront.

The Senate is also affected by this sentiment. This bill is providing us with a great opportunity to show that we senators care about ethics and that we are sensitive to this issue.

[English]

In the first vote I was uncomfortable with the concept of civil and criminal immunity for actions taken by the officer in good faith. I felt that very broad, exceptional protection put the officer above the law and unassailable where a good faith defence was successfully made.

I felt senators would be adversely affected, being unable to defend themselves properly. I have been convinced by one of my colleague's arguments and comments.

• (1700)

Closer analysis of the bill's provisions, more specifically proposed subsection 20.6(2), shows that federal statutes contain many such provisions — 93 in 54 separate acts. In this regard, the provinces have also introduced an ethics officer and have made provision for limiting the liability of the officer.

It must be stated that the officer's immunity is not absolute — far from it. If the ethics officer does not act in good faith or does not demonstrate the necessary discipline and ability, he or she may be removed for cause by the Governor in Council, on address of the Senate. We therefore have a mechanism to address cases of apparent abuse and bad faith.

[Translation]

Moreover, the Senate code of ethics will certainly include in its provisions the means to sanction the officer if he does not perform his duties properly or if he exceeds his authority.

We must also remember that people nominated for similar duties are subject to close scrutiny of their professional qualifications and personal biases before being officially appointed. The reasons behind granting limited immunity to people in such positions reflect the desire to protect any confidential information the officer may have, for example. That makes it possible to avoid any disclosures in a legal setting. Also, the officer cannot be constrained to testify and cannot be prosecuted with respect to his duties. He is protected in order to avoid his being subject to any form of sanction or reprisals from the outside.

After much thought, I have decided that it is reasonable to protect the officer in this way, remembering that if good faith does not obtain, the Senate can quite properly sanction the officer. On the question of the privileges of senators raised by one colleague, I think nothing should be cast permanently in stone. Although section 18 of the Constitution, 1867, says that the Senate cannot enjoy more privileges than those existing in the British Parliament at the time of Confederation, I am of the opinion that Parliament has always had the right and power to legislate the granting of a privilege. Absolutely nothing prevents Parliament from amending or clarifying the privileges of one of its chambers. I believe we are not prevented from conferring the privileges and immunities of the Senate and senators on the ethics officer.

I would now like to speak to the process for appointing this officer, which was the subject of the amendment put forward last fall. The fundamental principle of the independence of the Senate with respect to the executive branch or the House of Commons is undeniable in our parliamentary system. It must be scrupulously respected under all circumstances and that is why the

appointment procedure outlined in the bill — according to which the appointment would be made by the Governor in Council — initially raised some questions for me. The Prime Minister would have the power to appoint someone, but to what extent would the Senate, and the senators, be involved in the actual appointment process?

Proposed section 20.1 provides that the Governor in Council shall, by commission under the Great Seal, appoint a Senate Ethics Officer after consultation with the leader of every recognized party in the Senate and after approval of the appointment by resolution of the Senate.

[English]

Not only is the Prime Minister required to conduct the consultations provided for, but also he has an obligation to submit his choice for preliminary Senate approval. This is not in any way a unilateral appointment that does not involve our house. The fears expressed by some over the Prime Minister's power to appoint without a sufficient degree of consultation and approval of the Senate appears to have no basis.

Close examination of proposed section 20.1 reveals that it does not state from where the proposed name of the future officer should come, the Senate or the Governor in Council. Our leader in the Senate has made a formal commitment on behalf of the government. Before communicating the name to the Senate, he will unofficially consult the leaders of the recognized parties in the Senate, as well as other senators.

That commitment, although not legislative in nature, guarantees that the spirit of proposed section 20.1 will be complied with in future and will definitely set a precedent from which it will be difficult for any future government to deviate. That means the Governor in Council would take the Senate's interests into account in ensuring that the officer is perceived as independent and that he or she is completely independent in order to perform the duties of such a position.

[Translation]

I see no reason not to support the proposed appointment process. I do not believe that the independence and historical prerogatives of the Senate are threatened by the adoption of such measures. Under our parliamentary tradition, the Governor in Council appoints a number of officers of the Senate, a process that is fully recognized. It is a matter of balancing responsibilities, starting with the Governor General's prerogative to appoint the Speaker of the Senate, in accordance with section 34 of our Constitution.

Under the Public Service Employment Act, the Governor in Council appoints the Clerk of the Senate. Tradition and customs have resulted in the appointment of the Usher of the Black Rod by the Governor in Council; this appointment is not the result of legislation but rather a constitutional convention.



Consequently, it is neither new nor unusual for officers of the Senate to be appointed by the executive branch. Starting with our own Speaker, as obviously the Speaker of the House is elected, and senators themselves are appointed by the executive without any prior consultation. As you know, numerous people in Canada oppose the way senators are appointed. Accordingly, we must be rigorous and objective in our analysis of the process by which our future ethics officer will be appointed. If we subscribe unhesitatingly to the appointment process when it comes to officers of Parliament, such as the Auditor General, the Information Commissioner and the Privacy Commissioner, it is hard to show that, when it comes to the Senate, there is a need to proceed otherwise.

[English]

The degree to which party leaders and senators are consulted, the weight of precedent and the proof that our parliamentary system does not condemn this approach are all reasons in favour of the appointment process as proposed in the bill. If we comply with the proposed procedure on the face of it, the person appointed would be invested with the degree of approval and trust that such an office entails. He or she would also enjoy security of tenure so that no outside pressure can be exercised and dictated to the officer's conduct. This is essential for any person holding such office.

It would only be possible to remove the officer for valid reasons. Proposed subsection 20.2(1) provides that the Senate ethics officer may only be removed for cause and may only be removed by the Governor in Council on address by the Senate. The officer will be protected from any arbitrary action and changing moods of the Senate and government.

[Translation]

No one would be able to accuse the ethics officer of being in the pay of the Senate or the Prime Minister. His independence, the perception of independence, are thus strengthened. The public, as well as the senators, should have confidence in the performance of the ethics officer. Having stated my arguments, I do not think that the independence of the Senate is at stake here. Nor do I believe that the Senate ethics officer will be omnipotent or above the law, or fail to act in good faith.

I certainly do not think, in these difficult times, when too many Canadians are wondering whether they can trust their elected representatives, that the Senate can afford to pass up the opportunity we have, with Bill C-4, to put our concerns about ethics and integrity at the forefront. As senators, we have always been, and must continue to be, sensitive to issues having to do with ethics. We must demonstrate this clearly by supporting Bill C-4.

Today I am being very realistic when I say that I will support the creation of the position of a Senate ethics officer. I hesitated for a long time, reflected and took a closer look at the provisions before making my final decision. There is no longer any doubt in

my mind that I am doing the right thing. My decision is in keeping with my deepest moral convictions and consistent with my view of the Senate and Canadian parliamentarism.

As I said earlier in my speech, I am acting in good faith and after personal reflection on the best course to take in the general interest of our institution and our country.

• (1710)

**Hon. John Lynch-Staunton (Leader of the Opposition):** Would Senator Bacon entertain a question?

**Senator Bacon:** One question.

**Senator Lynch-Staunton:** You support the formula proposed by Senator Austin whereby each of the caucuses would confirm a double majority for a vote to take place in the Senate. This interesting formula would only apply for the duration of this legislature. I would prefer it to be truly useful and permanent, and that it be part of the bill that is now before us.

Would you be prepared to support an amendment that would give a permanent character to the formula proposed by Senator Austin, regardless of the duration of a legislature or of the date when a choice must be made?

**Senator Bacon:** Regardless of which party is in office, I do not think it would be able to change what will be done here, whether there is an amendment or not.

**Senator Lynch-Staunton:** That is not the question. Would you be prepared to support an amendment whereby Senator Austin's formula, which we have been debating for two days, would be included in the bill on a permanent basis?

**Senator Bacon:** I do not think it is necessary to have the formula in the legislation now to be able to implement it.

[English]

**Senator Lynch-Staunton:** It is against the Constitution? That is interesting.

**The Hon. the Speaker:** Senator Bryden, are you ready with a request for leave?

**Senator Bryden:** Yes, I am ready. I have the corrected copy.

Honourable senators, I request leave to distribute a new and accurate English version of the motion in amendment. It complies with the motion that I made orally. Honourable senators can know it is the correct version because it is signed on the front and it is dated 3/25/04. I would ask leave to have this distributed.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Leave is granted.

[ Senator Bacon ]

I ask the pages to distribute that copy and substitute it for the English copy that was first distributed.

**Hon. Shirley Maheu:** Honourable senators, I rise today to speak on Bill C-4 only because of what has gone on in the past two or three weeks and because this is an important initiative — providing ethics personnel for both Houses of Parliament.

Pardon me, honourable senators, when I say that I am not rushing to support this legislation. Parliamentarians and others have concerns about how this initiative will proceed in practice. We do recognize, however, the need for rules that address issues of conflict of interest, inside knowledge and the inappropriate furthering of private interests.

I have read with very great interest the numerous technical arguments and concerns that have been presented from both sides of this chamber. I would like to look for a minute at something that affects me so strongly that I must talk about it.

Canada's Auditor General functions in the same ballpark as that of the ethics personnel proposed in this legislation. All have responsibility as guardians of the integrity of the system. All assume roles to fix things that need fixing. All have an enormous challenge to work in good faith with due diligence and balance. As we deal with this legislation, we should pause to reflect on some of the outcomes of the current brouhaha about the federal government's sponsorship program and the role of the Auditor General in driving the agenda reviewing this program. Those are implications when legislating rules for ethics personnel.

Some Canadians have used this controversy to trot out old perceptions that governing is different in Quebec compared to the rest of Canada. A short while ago, a political scientist at the University of Calgary said that the sponsorship program shows that politics in Quebec is sleazy and that this sleaze is part of what makes Quebec a distinct society. I invite all honourable senators to condemn what this so-called Canadian intellectual has said.

**Hon. Senators:** Hear, hear!

**Senator Maheu:** Professor Barry Cooper is his name. He suggests that Quebec's distinct society is about sleaze. What a silly, damaging, unhelpful and uncharitable thing to say. It seems that the Auditor General's report has served as an excuse for some to revisit all the old clichés and thinly disguised bigotry that has characterized a certain level of relations between Quebec and the rest of Canada since the beginning of our time. Let us send a clear message that the Auditor General's report is not an excuse for a debate about Quebec's place in Canada. Let there be no report from future parliamentary ethics personnel that is used as a similar excuse to vilify Quebec and Quebecers.

Another outcome of the current report of the Auditor General on the sponsorship program is the impression that a trial of certain unnamed individuals has already taken place and has been concluded in secret. Those accused and tried yet-to-be-named individuals are already guilty and are about to be thrown into eternal purgatory.

Is this what we can expect as well from parliamentary ethics personnel? We should hope that the practical outcome of the ethics reporting system would not follow that unfortunate course. A trial and a parliamentary committee — disguised as a hearing, of course — is what we inevitably get when the political purpose of the investigation process is to score cheap political points, rather than to preserve the dignity and the integrity of the system.

Ethics personnel should not be about provoking and originating trials but, rather, approving and supporting due process. Where is the due process so far in the issues we have been looking at in the past weeks? Where is the principle of the right to presumption of innocence? Frankly, a well-crafted regime whereby ethics personnel are father-confessors is, by far, a more preferable approach than the pursuit of a Canadian 21st-century version of the Inquisition wherein the sponsorship program staff were being burned at the stake by the Auditor General while their names were kept secret. Witch hunts, leading to the gratuitous destruction of reputations, aided and abetted by parliamentary committees, auditors general and perhaps by ethics personnel should not be a part of the parliamentary system. These are activities that deter Canadians from choosing roles in the public life of our nation. How can anyone praise the American system?

• (1720)

Honourable senators might like to be reminded that our congressional neighbours to the south spent, recently, the munificent sum of \$40 million pursuing, investigating, sifting, inspecting, researching, examining, analyzing, studying and ultimately reporting on the very soft and quasi-pornographic dalliances of one, Bill Clinton, sometime President of the United States — \$40 million was spent on this little inquiry. I am not certain that any of our Canadian politicians are so exciting that we would actually spend \$40 million looking underneath their sheets, so to speak. Perhaps that could not happen here.

But wait a minute! Was there not an inquiry into the activities of parliamentarians and a certain Gerda Munsinger some time ago? It was surely a case of much money, time and energy being spent for the entertainment of Canadians. I believe that most Canadians thought this was a great waste of money.

You will recall that Gerda Munsinger was allegedly being bonked, and at the same time, in Montreal by two former Diefenbaker cabinet ministers, one from Ontario and one from Quebec.

**Senator Lynch-Staunton:** One was not yet married.

**Senator Maheu:** Gerda had had, apparently, similar liaisons with behind-the-Iron-Curtain interests, bonking on both sides of the Atlantic. What will our new ethics watchdogs have to say about yet-to-be-revealed dalliances of parliamentarians, particularly if it is about those from Quebec or those simply doing it in Quebec, especially about those doing it in Montreal, the most exciting city in Canada?



Sometimes I think Canadians — the ones very far from Quebec in particular — are a bit envious of all the fun that is supposed to be happening in Montreal and across la belle province.

The fact is that auditors general and ethics personnel need to be subject to some controls. These people are not, and must never be, above the law. Was the Auditor General out of control in the way in which she trashed the sponsorship program so publicly? Afterwards, the Auditor General left Canadians salivating, for a few short days, about the identities of those involved in the program. Then she refused, suddenly, to reveal any names. This seemed like a cat-and-mouse game. Can someone tell me if this pattern of the Auditor General's reporting of information and subsequent withholding of information was in the public interest?

Students of history can readily compare this to England's notorious Star Chamber, wherein today the media is used for purposes of torture rather than one of those 400-year-old machines of physical torture. Is this the same kind of apparently out-of-control behaviour we can expect to see generated by ethics personnel? Auditors general and ethics personnel should not consider themselves to be above the law.

Another issue is the concern about regulating financial relations between spouses and the appropriate reporting of such relations. Much has been said about this already. We are treading new territory here. Will the spousal issue adversely impact on the summoning of new senators?

Given that private members in both houses of Parliament are just that — private members — why should the rules governing ministers be the same as the rules governing private members? Is it not important that we guard the maintenance of these distinctions?

I am here as a supporter of the government, not as a member of the government, as is everyone else on this side except for our leader. We have different roles to play here, roles that have been tested over and over again in public life. Do we change this relationship at our peril? Perhaps.

In summary, honourable senators, I say once again, ethics personnel and auditors general should not be above the law. At the same time, our goal as senators should be that ethics personnel and auditors general have nothing to report.

I repeat what I said at the beginning of my remarks: Honourable senators, I am not rushing to support this legislation. However, with the hope that we can do something about it once the period we are facing has been passed, I will support this present bill and my leader and my government, but I hope that we can make the necessary changes.

**Hon. Senators:** Hear, hear!

**Senator Rompkey:** I move the adjournment of the debate.

**The Hon. the Speaker:** We had one other honourable senator wishing to speak — no, that honourable senator has changed her mind.

**Senator Rompkey:** I would like to move adjournment of the debate in the name of the Honourable Senator Smith.

On motion of Senator Rompkey, for Senator Smith, debate adjourned.

[Translation]

## BILL RESPECTING EQUALIZATION AND AUTHORIZING THE MINISTER OF FINANCE TO MAKE CERTAIN PAYMENTS RELATED TO HEALTH

### THIRD READING

**Hon. Pierrette Ringuette** moved the third reading of Bill C-18, respecting equalization and authorizing the Minister of Finance to make certain payments related to health.

She said: Honourable senators, I believe we are aware of the need for this extension in order to allow the provinces to benefit starting next week from the usual transfer payment to which they are entitled, and also to receive the \$2 billion dollars designated for health care.

**Hon. Lowell Murray:** Honourable senators, I have no objections or comments on the substance of the bill, but I do have several comments on equalization.

[English]

This equalization issue has moved more quickly than some of us — including, perhaps, the provinces — had expected. In February, there was a meeting of federal-provincial finance ministers, in the course of which Mr. Goodale, the federal minister, tabled a proposal, you might call it, for the renewed equalization program that would take us from fiscal 2004-05 for the next five years. As I think I pointed out in Question Period one day, it was a confidential document, but it was no sooner on the table than a number of provinces were in front of the television cameras denouncing it, followed closely by the minister defending it. That was the last we heard or saw of the issue until fairly recently.

Meanwhile, this bill, Bill C-18, received second reading in the Senate and went to our Standing Senate Committee on National Finance. We had no difficulty with the extension. We heard from the parliamentary secretary to the Minister of Finance, the Honourable John McKay, last Tuesday morning, and then from officials of the Finance Department; and I think the committee, as usual, did due diligence with that bill.

At the same time, we decided that in view of the state of federal-provincial fiscal relations generally, and the considerable controversy about the situation regarding equalization, our committee ought to revisit the general subject of equalization.

Honourable senators will recall that two years ago we presented a report with a number of recommendations. Lo and behold, at least one of our major recommendations was accepted and implemented by the Chrétien government. Others have not been so readily accepted.

In any case, we felt that we should revisit the issue. Therefore, we began to lay plans to do that, beginning next week and in the period following Easter, assuming we are all back here.

• (1730)

Meanwhile, somewhat to my surprise in the budget speech or paper, Mr. Goodale indicated strongly that the document he had tabled for the provincial ministers had undergone a few minor changes and that he would be introducing legislation for the renewed equalization program imminently.

I do not think that should stop our committee from doing what it had intended to do, which is to revisit the general equalization issue and to make our recommendations. I confirm that beginning on Wednesday at 6:15 p.m., we will hear from Professor Harvey Lazar, Director of the Institute of Intergovernmental Relations at Queen's University. He does not pretend to be an expert on equalization in a technical sense, but he has a great deal of expertise on federal-provincial fiscal relations. He was in charge of the team that did the federal-provincial fiscal work for the Romanow commission. He will be followed that same evening by the Deputy Minister of Finance from Nova Scotia. Other provinces are lining up to testify, and we plan to have a number of experts to present a good balanced approach on these issues beginning April 20 and 21, assuming we are back after Easter.

I simply wanted to make that statement for the information of honourable senators. Meanwhile, Bill C-18 can pass and extend the present equalization program for 12 months, it being understood that the new one brought in will be retroactive to April 1, 2004.

**Senator Lynch-Staunton:** Is there a minister's letter on that?

**Senator Murray:** It is in the bill.

**Hon. Gerald J. Comeau:** Honourable senators, I have a couple of comments to make on the bill. Committee members asked the parliamentary secretary about the retroactive element of Bill C-18. Once the new equalization bill is passed, it could retroactively amend the extension of Bill C-18. That was somewhat worrisome for provinces that are trying to prepare their budgets for the upcoming year. They will have to base it on Bill C-18, not knowing how the new equalization bill will impact on what they are now being told they will receive under Bill C-18. I raised that item but was unable to obtain a commitment from the government on whether those retroactive adjustments would be strictly on the positive side; so they could, in fact, be on the negative side. The provinces will have to recognize that in their budget-making process.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

[Translation]

## PARLIAMENT OF CANADA ACT

### BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

**Hon. Yves Morin** moved second reading of Bill C-24, to amend the Parliament of Canada Act.

He said: Honourable senators, I have the honour to present Bill C-24, to amend the Parliament of Canada Act. This legislation will improve the medical plan coverage of retired members of Parliament.

[English]

The bill would allow parliamentarians with at least six years of service and who retire between the ages of 50 and 55 to receive medical plan coverage on the same basis as parliamentarians who receive a parliamentary pension. The bill was passed in the other place with all-party support.

Honourable senators and members of the other place receive coverage under the Public Service Health Care Plan, the Public Service Dental Care Plan and the Public Service Management Insurance Plan established by the Treasury Board. Retired parliamentarians who receive a pension could continue their coverage just like retired public servants in receipt of a pension.

Prior to changes to parliamentary pensions in 1995, all parliamentarians who contributed to the pension plan for at least six years were eligible for an immediate pension upon retirement, regardless of age. They would all receive benefit plan coverage on retirement, regardless of age.

After Parliament passed changes to the parliamentary pension plan in 1995, parliamentarians elected after 1995 could only receive a pension at age 55. These parliamentarians could receive benefit plan coverage only after age 55.

I would note that public servants may retire as early as age 50 and receive a reduced pension and continue their benefit plan coverage if they pay their premiums. However, there is a gap for former parliamentarians elected to the other place or appointed to the Senate after 1995 who are between 50 and 55. These parliamentarians are not eligible for benefit plan coverage until they receive a pension at age 55. Bill C-24 addresses this gap by allowing parliamentarians with at least six years of service and who retire between the ages of 50 and 55 to be eligible to pay the necessary premiums for continued coverage under these plans.

In 2001, Parliament agreed to a disability allowance for parliamentarians aged 65 and over who resign because of disability. This responded to the 1998 report of the Standing Committee on Privileges, Standing Rules and Orders. Since 2001, it has been brought to the government's attention that the authority for medical plan coverage for parliamentarians over 55 is unclear and that legislation should clarify this situation. The bill provides authorization for parliamentarians over 65 who receive a disability allowance to continue their participation in benefit plans.



Bill C-24 would come into force on January 1, 2001, as is the case with other changes to parliamentary compensation made in 2001. This would also ensure that one former parliamentarian over 65 who is in receipt of disability allowance would have the necessary authority for medical plan coverage.

[Translation]

That, honourable senators, is the main thrust of a bill that will markedly improve parliamentarians' benefit package. I trust it will meet with your support.

On motion of Senator Lynch-Staunton, debate adjourned.

[English]

#### APPROPRIATION BILL NO. 4, 2003-04

##### BILL TO AMEND—SECOND READING

**Hon. Joseph A. Day** moved second reading of Bill C-26, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004.

He said: Honourable senators, this bill is based on the Supplementary Estimates (B), 2003-04.

• (1740)

Honourable senators will have received the Supplementary Estimates (B) and, I am sure, have studied those Estimates as your committee has done. The Standing Senate Committee on National Finance looked at these Estimates with your direction. The results of the study are in the committee's third report, which was adopted on March 11, 2004.

Honourable senators, in summary, the Supplementary Estimates (B), which were tabled in this Senate on February 19, deal with the conclusion of this fiscal year and any additional approval of funding that the government requires to conclude this fiscal year. The amount of funding that is requested in Supplementary Estimates (B) and is requested in this bill, which is reflective of those Supplementary Estimates, is \$8.1 billion of which \$1.9 billion is required to be voted. The balance of \$6.2 billion is an increase in projected statutory spending from amounts forecasted in the original Main Estimates filed a year ago.

Honourable senators, the \$6.2 billion is not required to be voted on but is rather given in the Supplementary Estimates and is referred to here for knowledge purposes only. We have already passed statutes that authorize those expenditures. In effect, this bill requests approval for \$1.9 billion in voted expenditures. The important point is that these expenditures were provided for within the planned spending set out by the Minister of Finance in his February 2003 Budget and in his November 2003 Economic and Fiscal Update.

Honourable senators, I would urge your support of this bill at second reading.

[ Senator Morin ]

**The Hon. the Speaker:** As I see no honourable senator rising, are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Day, bill placed on Orders of the Day for third reading at the next sitting of the Senate.

#### THE ESTIMATES, 2004-05

##### INTERIM REPORT OF NATIONAL FINANCE COMMITTEE ON MAIN ESTIMATES ADOPTED

The Senate proceeded to consideration of the sixth report (first interim) of the Standing Senate Committee on National Finance (2004-05 Estimates) presented in the Senate on March 23, 2004.

**Hon. Lowell Murray** moved the adoption of the report.

He said: Honourable senators, I will not keep you long, as I will try to kill at least two birds with one stone in addressing this report. The report is before us and the transcripts of our meetings are available if honourable senators are really keen to follow them.

We, the Standing Senate Committee on National Finance, undertook our study of the Main Estimates for 2004-05 on March 9 and 10. On March 9, we heard from Treasury Board officials and on March 10 from the minister himself, the President of the Treasury Board, Mr. Alcock, and his officials.

In reading the report, I especially draw the attention of honourable senators to the narrative concerning the restructuring within the government that began with the swearing in of the Martin government on December 12. In particular, we had quite a discussion about that with Mr. Alcock. There is one element of it that I want to flag for honourable senators and it concerns the comptroller general. The government has decided to restore the office of comptroller general of Canada and to place them in every department and agency of government. So far, so good.

Our committee has taken quite an interest in this general subject of comptrollership for some time, when our good and much missed friend Senator Bolduc was with us. He spoke frequently about the value of having comptrollers in each department who reported to a comptroller general for the entire government and were able to — I do not want to say “blow the whistle” — flash an orange light when activities that were taking place or about to take place in departments may not have been completely kosher. As Senator Bolduc used to explain it, this regime obtains in the Government of Quebec, and he was a long-time senior civil servant there. He told us that it worked very well.

When Mr. Alcock was before our committee, we asked him about this. In particular, we asked whether the comptroller in the various departments would be reporting to the comptroller general. In other words, although located in a particular department, we wondered if the comptrollers would serve a master other than the deputy minister, the deputy head of that department or agency.

Mr. Alcock, if one reads between the lines of his responses, indicated that while there are arguments on both sides and they were trying to strike a balance, it was obvious to those of us who have been around for a while that there was some tension in the system and obviously some argument going on in the system as to whether the comptroller in the department should report to the deputy minister or to the comptroller general of Canada.

On budget night, I was at home watching television and saw Mr. Alcock being interviewed on CBC and Mr. Don Newman, who posed exactly that question because Mr. Alcock had used the example of the comptroller function as being one of the big improvements that was being brought to bear in the restructuring of the government. Mr. Newman asked him whether the comptroller in the department would be reporting to the comptroller general. Mr. Alcock indicated very conclusively that the issue had been settled. No, the comptroller in the department will be reporting to the deputy minister but will have a secondary reporting relationship to the comptroller general of Canada.

I think that is a mistake. The government will regret it. Why go to all that trouble to have another officer reporting internally? I do not want to open up or re-open the debate about the sponsorship business, but if senators will recall what happened in the Department of Public Works and Government Services, the then deputy minister, Mr. Ranald Quail, by his own testimony at the Public Accounts Committee of the House the other day, indicated he simply stepped aside. He stepped aside so that whatever could transpire between a lower level public servant and the minister, and who knows who else, could be allowed to transpire unimpeded. If there had been a comptroller in that department reporting to the deputy minister, what good would it have done? It is much better to have a comptroller who reports to a comptroller general. I think it is in the interests of the government to have that arrangement, and I am more than a little disappointed that, in the argument between those who wanted a better system of comptrollership and those who wanted to maintain the culture of the system, the system obviously won out.

• (1750)

Honourable senators, what I am going to say now could be as easily said when Bill C-27 — which is the interim supply bill for the new fiscal year — comes before us. However, I will say it now and remain silent, you will be happy to hear, when the interim supply bill comes.

The Estimates that we were looking at in the committee, the so-called Main Estimates for 2004-05, are, as I concluded and

said, a first draft. These Main Estimates will be replaced some time before the end of June by a revised set of Main Estimates. This is highly unusual, to put it mildly. The explanation is this: "Well, restructuring is taking place among departments and agencies, and so forth; therefore, to reflect that restructuring, we will bring in a revised set of Main Estimates."

At the same time, honourable senators, we do not have before us, as we have had every year, Part III of the Estimates, the Reports of Plans and Priorities (RPP). They are nowhere to be found. We asked about them. "Well, there is no point bringing forward departmental plans and priorities, given that restructuring is taking place. The departmental plans and priorities will have to reflect that restructuring." When will we see them? "Well, May, June, sometime." Not quite "aux calendes grecques," but in the spring.

If an election is held in the spring, we will have an election in which there is only a first draft of the Main Estimates and no departmental plans and priorities on which to judge what is behind these expenditures. If an election is not held, the new Main Estimates will be presented, let us say, some time in June. Meanwhile, because of the bizarre set of rules governing supply in the House of Commons, these Main Estimates, this first draft, will be deemed to have been adopted by the various committees, whether the committees have opened the book on them or not. Hence, the supply cycle will be completed.

Meanwhile, in Bill C-27, which our friend is lusting to present as we speak — is lusting to defend, and I want to hear this — they are asking for supply until the end of December, of \$50 billion, as the Deputy Leader of the Opposition points out.

This is truly unique. In looking back at election years, as far back as the 1960s, it has never happened — except once, in 1997, when the opposition over there must have been asleep at the switch — that they asked for supply for nine twelfths of the year at the beginning of the fiscal year. What makes this truly unique is that we are being asked to vote supply until the end of December on the basis of a first draft of the Estimates and no departmental plans and priorities.

It places the Senate in a somewhat awkward position, but I cannot help but reflect, which I will do for a minute or two, on the role of the House of Commons again. Honourable senators have heard me on this point before.

There they are over there, trying to get a little piece of the executive prerogative. They want to vet appointments to boards and commissions; they want to have their say about the Supreme Court; they want to be able to draft legislation. Meanwhile, the central role of the Commons, the central power they have — the power of the purse — has been gone for more than 35 years. All this other stuff — they must realize that the executive is just co-opting them. The executive can keep them busy forever looking at nominations to the National Parole Board, or whatever it is, and they will not have done their job.



My message to them is this: Get back the power of the purse and you will have struck the biggest blow, not just for fiscal conservatism or fiscal prudence, but the biggest blow for parliamentary democracy that has been struck in 35 years.

**Hon. Joseph A. Day:** Honourable senators will understand why those of us who serve on the National Finance Committee under the very able leadership of Senator Murray enjoy and covet the opportunity to so serve, having just heard the comments from Senator Murray.

We have the report, honourable senators, which I believe fairly reflects the discussion that took place within our committee. I would urge support of that report.

**The Hon. the Speaker:** I see no other senator rising. Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** It was moved by the Honourable Senator Murray, seconded by the Honourable Senator LeBreton, that this report be adopted now.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

#### APPROPRIATION BILL NO. 1, 2004-05

##### BILL TO AMEND—SECOND READING

**Hon. Joseph A. Day** moved second reading of Bill C-27, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005.

He said: Honourable senators, as we have just seen with the previous bill, in the normal process what happens in the Senate is somewhat different from the other place in how we deal with these supply bills. Normally, what would happen is that we would receive, as in this instance, the Main Estimates, and the National Finance Committee would study those Main Estimates and come forward with a report, which in fact we have just adopted. Therefore, we have followed the procedure up to this time.

Typically, we would then use that report as a form of a pre-study and therefore not go into committee with the bill on supply. However, in this particular instance, it has been agreed between the leadership on both sides that we would in fact go to committee on this bill. Following second reading, it would be my proposal to ask honourable senators to refer this bill to committee. The committee is prepared to deal with the matter on Tuesday next at its normal time.

The reason for this change in our normal procedure relates precisely to the points just raised by the chairman of our committee, Senator Murray. Typically, the first supply bill that we get with respect to the Main Estimates is an interim supply bill

for three twelfths of the year. In this particular instance, the supply bill when it came was asking for nine twelfths of the year. Therefore, we would like to ask some questions in relation to that particular issue. That is why we will be asking that this matter be referred to committee.

• (1800)

At this stage at second reading, this is an interim supply for 2004-05, based on the Main Estimates, which have been studied. The total Main Estimates contain \$183 billion in budgetary expenditures, which is included in the planned spending laid out by the Minister of Finance in his February 2003 budget and his November —

**The Hon. the Speaker:** I am sorry to interrupt, Senator Day, but it is six o'clock.

**Senator Rompkey:** I think, if you were to ask the chamber, Your Honour, you would get an agreement not to see the clock.

**The Hon. the Speaker:** Honourable senators, it is agreed that we not see the clock?

**Hon. Senators:** Agreed.

**Senator Day:** Thank you, honourable senators.

Of the total amount that is outlined in the Main Estimates, \$65 billion is appropriated or amounts that we must vote on, and the balance is statutory and already approved under different statutes. Of that \$65 billion, Appropriation Bill No. 1, which we are dealing with today, is asking for approval to spend \$50.1 billion.

Honourable senators, I would ask for your support on this supply bill at second reading.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I should like to participate in the debate on this bill at second reading. I would begin my remarks by observing that even when it is used on a bill, the idea of pre-study is that we study the subject-matter of a bill that is being examined in the other place with the objective of having our views taken into consideration, through our report, by the House committee before it concludes its work. The analogy comparing the work that is done by the National Finance Committee in its report to the pre-study process is really not accurate.

It has been mentioned by Senator Day and Senator Murray that the situation this year is a little bit different. We are being asked to vote interim supply of \$50 billion, sufficient to last the government, not just as usual until the end of June, but rather, until the end of December, based on what is essentially an interim set of Main Estimates. Beyond the Main Estimates tabled last month and the Supplementary Estimates that will follow later this year, the government plans to table a second set of Main Estimates late in the spring, reflecting the government's reorganization and any new spending announced that flows from the budget of earlier this week.

The traditional blue book is but a stopgap measure, meeting a requirement under the rules of the other place that they be tabled by the end of February. However, no one told Parliament when the Main Estimates were tabled on February 24 that it was an interim document. The President of the Treasury Board simply told the other place, "Mr. Speaker, I have a copy of the Main Estimates to be laid at the table, and I have copies for the appropriate critics and leaders of the opposition parties in the House." My colleague Senator Rompkey in this place made a similar statement, telling us, "Honourable senators, I have the honour to table the 2004-05 Estimates, Part I and Part II of the government expenditure plan and Main Estimates."

Honourable senators, the government chose to announce that there would be two sets of Main Estimates this year, not through Parliament, not through a minister rising in his or her place, but through a press release. The President of the Treasury Board was questioned about this when he appeared before the National Finance Committee of the Senate on March 10, telling Senator Lynch-Staunton that, "I was simply informed that I could not make a statement. That was why there was no statement. I got a formal set of instructions, stand, read this, put it down on the table, stand, read that, put it down on the table, and walk away." It is astonishing that the minister, an experienced parliamentarian, would simply accept someone telling him that he, as a minister of the Crown, could not make a statement. Every day in the other place, the Speaker calls for statements by ministers. There is an appropriate time that he could have done so. Does the Prime Minister's office silence ministers in their parliamentary duties, one might ask? Who gave this advice, and why was it accepted?

Honourable senators, the previous day, March 9, during the committee's initial meeting on the Main Estimates, our colleague Senator Murray had asked the Treasury Board officials if there was any precedent for this occurrence. Aside from a case eons ago where Estimates had been re-tabled following a change of government, the answer, honourable senators, was no.

This is not the only affront to Parliament this year. Reports on plans and priorities, or the Part IIIs, as has been mentioned, will not be tabled until the end of May. Part III provides Parliament with detailed information on the planned spending and expected revenues of each department, board and agency of the government. They are the documents through which the government not only informs Parliament of its detailed spending plans but justifies its requests for supply. Normally, we get these towards the end of March. Indeed, according to a November 5 memo sent from the Treasury Board to reports on plans and priorities coordinators in the various other government departments, the game plan last fall was to table them on March 25. Then, on February 6, a new memo went out giving a revised tabling date of May 25. Moreover, information on the new departments will not follow until the fall. Subsequently, we will have the machinery of government legislation.

This might be convenient for the government. If an election is called, Canadians will not know the full details of the government's spending plans. If an election is not called,

committees in the other place will examine the Estimates without the benefit of the government's full expenditure plans until almost the date on which they will be deemed to have been reported back to the House. The government has chosen to sit on the information that Parliament and Canadians need to hold the government accountable until it is too late to be of any use.

What is the justification, for example, for not telling Parliament whether the \$100 million allocated to the Canadian firearms registry in the Main Estimates is the full amount or just another down payment? The Part IIIs would give us total planned spending this year, including funds to be voted through the Supplementary Estimates. This is important for the simple reason that there has yet to be a single fiscal year where the gun registry has lived within the money voted through the Main Estimates.

What is the justification for not now providing an updated accounting of the EI fund and its surplus, as we typically would receive in the Part III for Human Resources Development Canada? Last year, Finance Minister John Manley said that the EI premium for 2004 would be just the amount needed for the program to break even. As long as we do not have updated numbers, we cannot tell if the government is or is not still adding to the more than \$40 billion it has already fleeced from Canadian workers.

Honourable senators, votes in a supply bill typically provide departments with authority to spend the revenue that they receive from the various charges and fees. Where is the detailed breakdown of expected revenue from cost recovery charges that would normally be detailed in the Part IIIs? For example, how much will the government collect from airport leases this year, from aviation inspection revenues, or from short-line rail inspection? We do not have the Part IIIs for the transportation department, so therefore we do not know.

We are told that the need for revised Main Estimates and the delayed reports on plans and priorities are all due to the massive government reorganization announced by the Prime Minister last December. Where is the legislation to create these new departments? Where is the machinery of government legislation? We have been sitting here for several weeks with a very thin government legislative agenda, and there is no justification for the machinery of government legislation not to have been brought forward. The fact is that the Department of Human Resources Development Canada, for example, continues to exist in law until such time as Parliament says that it does not. Its people and programs are still voted their funding under that name. For that matter, why does the government not at least table the reports on plans and priorities for those departments that are not undergoing a massive reorganization?

• (1810)

Honourable senators, prior to the 1980s, there was just one book for the Main Estimates. There was no Part I, II or III. The Part IIIs, the reports on plans and priorities, were introduced in the early 1980s. At that time, they were called departmental expenditure plans and were tabled at the end of February along with the Part I expenditure plan and the Part II Main Estimates.



Along the way, the February tabling date was extended to March, so that the government departments would have a few weeks to incorporate changes from what was then typically a February budget. This was a tradeoff. Parliament got more complete information, a few weeks after the Main Estimates, but with plenty of time for proper committee study before supply was voted, in June. This year, we are being promised complete information far too late for it to be of much use in the supply process.

Honourable senators, after the Part IIIs became available for all departments, much of the information formerly available in the Main Estimates was dropped in the Part IIs to avoid duplication. For example, in the Main Estimates that Parliament received in the years prior to the mid 1980s, we would typically be given the details of every major capital project. Thus, senators and members of the other place could look at the 1983 Main Estimates for the fisheries department and know that the government now planned to spend \$2.7 million on harbours development at Sandy Cove, east of Nova Scotia, compared to the previously estimated \$2.3 million cost for this project. The problem is that you cannot do that today unless you have the Part IIIs, and we do not have the Part IIIs.

Honourable senators, I could go on, but given the lateness of the hour, I will simply conclude. The proponent of the bill has indicated that the bill ought to go to the National Finance Committee. I would hope that the National Finance Committee would meet on this bill forthwith to hear from witnesses such as the Secretary of the Treasury Board, Mr. Judd, or perhaps even the Deputy Minister of Finance, Mr. Lynch.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

#### REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

**Hon. Lowell Murray:** Honourable senators, if this motion passes, the committee will meet at 9:30 on Tuesday morning. Meanwhile, we will endeavour to obtain the presence of the witnesses that the Deputy Leader of the Opposition has mentioned.

**The Hon. the Speaker:** I am not sure that is entirely in order. In any event, thank you, Senator Murray.

Is it your pleasure, honourable senators, to adopt the motion?

On motion of Senator Day, bill referred to the Standing Senate Committee on National Finance.

#### PARLIAMENT OF CANADA ACT

##### BILL TO AMEND—ALLOTMENT OF TIME FOR DEBATE—NOTICE OF MOTION

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, I rise to inform the chamber that I have had a discussion with my counterpart, the Deputy Leader of the

Opposition, about the disposition of Bill C-4. It has not been possible to reach an agreement concerning the time to be allocated for the third reading stage of this bill.

Therefore, I wish to give notice that, at the next sitting of the Senate, I will move:

That, pursuant to rule 39, not more than a further six hours of debate be allocated for the consideration of the third reading stage of Bill C-4, to amend the Parliament of Canada Act and other acts in consequence;

That when debate comes to an end or when the time provided for the debate has expired, the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively every question necessary to dispose of the third reading stage of the said bill; and

That any recorded vote or votes on the said questions shall be taken in accordance with rule 39(4).

#### BUSINESS OF THE SENATE

**Hon. Bill Rompkey (Deputy Leader of the Government):** Your honour, I believe that if you were to poll the chamber, you would find agreement that we stand all other items on the Order Paper in their order until the next sitting of the Senate.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, excepting the house order that was passed earlier today to consider Bill S-15.

**The Hon. the Speaker:** Is it agreed, honourable senators that we proceed to Bill S-15?

**Hon. Senators:** Agreed.

#### QUEEN'S THEOLOGICAL COLLEGE

##### PRIVATE BILL TO AMEND ACT OF INCORPORATION— THIRD READING

**Hon. Lowell Murray** moved the third reading of Bill S-15, to amend the Act of Incorporation of Queen's Theological College.

He said: Honourable senators, I thank the leadership on both sides and I thank honourable senators on behalf of Queen's Theological College for having expedited or facilitated the movement of this bill to committee. I thank the chairman and members of the Standing Senate Committee on Legal and Constitutional Affairs for having made the time at their meeting yesterday to hear from us.

Yesterday, the committee heard from the Reverend Jean Stairs, the Principal of Queen's Theological College; from the Reverend Anne MacDermid, Chairman of the Board of Management of the college; and from Mr. Robert Little, QC, a lawyer in private practice in Kingston, who acts for Queen's University and for the Theological College.

The members of the committee canvassed the issues quite thoroughly. The substantive matter that arose concerned the process. That is, is it good practice for organizations that have been incorporated by acts of Parliament to return to Parliament to have their acts of incorporation amended or should we not provide for an amending formula for these organizations to amend their own business.

Honourable senators, I will refer to the observations in the third report of the Standing Senate Committee on Legal and Constitutional Affairs on Bill S-15, tabled by our friend, the chairman, Senator Furey, earlier today:

...your Committee believes that the time has passed when private corporations incorporated by a Special Act of Parliament should be required to return to Parliament to modernize their governance structures. Your Committee has previously recommended that the Canada Corporations Act should be amended to permit these corporations to regulate such matters internally, and we reiterate that recommendation in the context of Queen's Theological College and all other Special Act corporations in the same situation.

Senator Andreychuk and Senator Joyal raised this question and discussed it at the committee. They also posed questions to our witnesses on the matter. Mr. Little, the solicitor for Queen's Theological College, in effect agreed with the position of Senator Andreychuk and Senator Joyal and indicated that the matter had been under consideration by their board on a previous occasion, but that they had come to no conclusion.

• (1820)

It is the hope and expectation of us all, I believe, that the discussion of the committee yesterday and the observations appended to this report may spur Queen's Theological College and others in a similar position to suggest to us the kind of changes that would be necessary in the Canada Corporations Act to enable them to attend to their own business without need of coming to Parliament.

With regard to Queen's University generally, it is a different situation. Nothing we do in the Canada Corporations Act would, I think, be applicable. Queen's University itself exists under a Royal Charter granted in 1841 under the old United Province of Canada. There was much discussion afterwards as to who would have jurisdiction to amend the charter. There was something called the Temporalities Case involving the Presbyterian Church that found that it would be not the legislature of Ontario, not the legislature of Quebec, not the two of them acting together, but only the Parliament of Canada that could amend that charter.

They have come here seven times, and a reading of the debate is intensely interesting. I read one of those debates dating back to 1911 on the jurisdictional and other questions involved. It was engaged in by then Prime Minister Sir Robert Borden and then

Leader of the Opposition Sir Wilfrid Laurier, both quoting the former and late Minister of Justice and Prime Minister Sir John Thompson and various other eminences who took part in the debate. It is a treat to read if you have the time.

I thank honourable senators for their indulgence on this matter. I hope we will be able to proceed and approve this bill at third reading and commend it to the safe hands of the member of the House of Commons for Kingston and the Islands, Mr. Speaker Milliken.

**Hon. Joseph A. Day:** Honourable senators, it has been my pleasure to second the motion sending this bill on its way through the Senate. I would also like to thank honourable senators for their unanimous consent to expedite this matter, and I urge honourable senators to support this bill.

**Hon. A. Raynell Andreychuk:** I want to echo the words of Senator Murray. I am pleased that Senator Austin is here because this is the second time that the committee has indicated that it is very difficult for the committee to judge what is in the best interests of the membership.

The witnesses who appeared before us explained why they needed the changes. There was an outdated modality from the Presbyterian Church to the United Church, et cetera. I believe that it is time, 100 years later, that we allow the evolution of the membership to occur without coming to Parliament. I do not think we have the skill to deal with this matter, and I do not think we are the people who should be determining how to hold the management and directors accountable. That is something within the purview of the college. While they came with graciousness and good information, I think it is time that we entered a new era, and I hope that we do not get another charter application. They should receive the same scrutiny as any other corporation. This is the second time we have put that comment on the record, and I trust that something will be done. It is not a contentious issue. We were all in agreement.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I have not followed the debate on this bill closely, but I want to observe — and perhaps the sponsor of the bill could assist me — that there is nothing with which I am familiar that would prevent the presentation of a bill here that would remove Queen's Theological College from our jurisdiction. The college could ask that the legislation that presently applies to it be revoked, and they could apply under Part II of the Canada Corporations Act and incorporate, or they could ask us to provide for a transitional arrangement.

I share with Senator Cools a bit of nostalgia for the ancient role of Parliament. Of course, in this 21st century, pragmatic expediency, I am sure, will govern this conflict.

**Senator Murray:** I think the Leader of the Government is correct. It will be entirely within our power to take the steps that he described. However, as he will know, I have never been one to impose amending formulas on others.



**Senator Andreychuk:** This is not the only college or group that is caught under this legislation. Surely someone within the ministry could look at this matter. We have had other examples of this sort of situation. Senator Joyal pointed out one that I had forgotten that we had dealt with. This is something that should be considered in the routine of considering amendments to the Canada Corporations Act.

**The Hon. the Speaker:** Honourable senators, before I put the question, Senator Day indicated a desire to second the motion for

third reading of the bill. I did not state it that way. Is it agreed that Senator Day be the seconder?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

The Senate adjourned until tomorrow at 9 a.m.

## APPENDIX

## PERFORMANCE BONUSES TO OFFICIALS

(see page 616)

Department or Agency / Ministère ou agence	Number of executives by classification level						Number receiving in-range movement	In-range salary expenditure \$	Number receiving lump sum	Lump sum expenditure \$
	EX01	EX02	EX03	EX04	EX05	Total				
Accelerated Executive Development Program / Programme de perfectionnement accéléré des cadres supérieurs	2	18	38			58	26	87,181	53	467,041
Agriculture and Agri-Food Canada / Agriculture et Agroalimentaire Canada	67	34	19	7	2	129	45	206,795	124	982,775
Atlantic Canada Opportunities Agency / Agence de promotion économique du Canada atlantique	20	10	3	3	2	38	6	36,588	38	300,060
Canada Industrial Relations Board / Conseil canadien des relations Industrielles	7		1			8	1	4,700	7	57,660
Canadian Centre for Management Development / Centre canadien de gestion	12	6	5	1	1	25	5	24,342	23	178,188
Canadian Environmental Assessment Agency / Agence canadienne d'évaluation environnementale	6	1	2			9	1	1,600	9	66,676
Canadian Grain Commission / Commission canadienne des grains	2	3		1		6	2	7,500	6	39,500



Performance Management Program for Executives of the Public Service of Canada Results for 2002-2003  
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	Number of executives by classification level						Number receiving in-range movement	In-range salary expenditure \$	Number receiving lump sum	Lump sum expenditure \$
	Nombre de cadres supérieurs par niveau de classification									
	EX01	EX02	EX03	EX04	EX05	Total				
Department or Agency / Ministère ou agence										
Canadian Human Rights Commission / Commission canadienne des droits de la personne	6	1	1	1		9	5	24,491	9	57,705
Canadian International Development Agency/ Agence canadienne de développement international	68	32	8	7	3	118	32	143,541	107	746,566
Canadian International Trade Tribunal / Tribunal canadien du commerce extérieur	2	4	1	1		8	2	8,100	8	63,200
Canadian Radio-television and Telecommunications Commission / Conseil de la radiodiffusion et des télécommunications canadiennes	17	5		1		23	7	38,389	20	152,001
Canadian Space Agency / Agence spatiale canadienne	14	6	4	1		25	8	43,118	25	194,835
Canadian Transportation Agency / Office des transports du Canada	7	2	2			11	3	9,900	10	68,351
Communication Canada	24	8	2	5		39	21	131,085	35	259,366

	Number of executives by classification level						Number receiving in-range movement	In-range salary expenditure \$	Number receiving lump sum	Lump sum expenditure \$
	Nombre de cadres supérieurs par niveau de classification									
	EX01	EX02	EX03	EX04	EX05	Total				
Department or Agency / Ministère ou agence										
Correctional Service Canada / Service correctionnel du Canada	57	59	13	8	2	139	41	160,409	139	990,170
Department of Canadian Heritage / Ministère du Patrimoine canadien	53	21	11	5	2	92	23	84,261	89	670,992
Department of Citizenship and Immigration / Ministère de la Citoyenneté et de l'Immigration	84	23	16	5	1	129	118	771,804	118	818,745
Department of Finance / Ministère des Finances	66	29	20	9	5	129	34	166,636	125	974,431
Department of Fisheries and Oceans / Ministère des Pêches et des Océans	158	31	25	11	2	227	88	329,900	221	1,605,558
Department of Foreign Affairs and International Trade / Ministère des Affaires étrangères et du Commerce international	231	100	97	22	9	459	436	2,630,675	412	3,335,593
Department of Health / Ministère de la Santé	112	83	36	6	3	240	90	413,270	204	1,585,419



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Number of executives by classification level										
Nombre de cadres supérieurs par niveau de classification							Number receiving in-range movement	In-range salary expenditure \$	Number receiving lump sum	Lump sum expenditure \$
	EX01	EX02	EX03	EX04	EX05	Total				
Department or Agency / Ministère ou agence										
Department of Human Resources Development / Ministère du Développement des ressources humaines	212	53	50	16	5	336	136	613,500	328	2,433,577
Department of Indian Affairs and Northern Development / Ministère des Affaires indiennes et du Nord canadien	108	34	32	6	2	182	61	314,334	173	1,347,986
Department of Industry / Ministère de l'Industrie	153	51	51	8	2	265	44	192,500	233	1,682,480
Department of Justice / Ministère de la Justice	27	17	14	1	3	62	22	101,500	58	374,601
Department of National Defence / Ministère de la Défense nationale	82	20	14	3	3	122	41	167,103	117	867,810
Department of Natural Resources / Ministère des Ressources naturelles	55	39	25	4	5	128	44	158,400	122	937,059
Department of Public Works and Government Services / Ministère des Travaux publics et des Services gouvernementaux	125	72	43	7	3	250	76	325,102	228	1,794,923

Number of executives by classification level										
Nombre de cadres supérieurs par niveau de classification										
	EX01	EX02	EX03	EX04	EX05	Total	Number receiving in-range movement	In-range salary expenditure \$	Number receiving lump sum	Lump sum expenditure \$
Department or Agency / Ministère ou agence										
Department of the Environment / Ministère de l'Environnement	69	30	24	4	3	130	45	206,102	127	982,053
Department of the Solicitor General / Ministère du Solliciteur général	18	11	5	4	1	39	24	97,334	37	295,735
Economic Development Agency of Canada for the Regions of Quebec / Agence de développement économique du Canada pour les régions du Québec	7	6		3		16	3	12,100	15	124,213
Immigration and Refugee Board / Commission de l'immigration et du statut de réfugié	9	5	3		1	18	8	44,658	16	133,101
Infrastructure Canada	2	2	2	2	0	8	3	15,786	7	70,655
National Archives of Canada / Archives nationales du Canada	10	3		1		14	5	18,250	14	96,105
National Parole Board / Commission nationale des libérations conditionnelles	9		1			10	2	8,735	10	58,564



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	Number of executives by classification level						Number receiving in-range movement	In-range salary expenditure \$	Number receiving lump sum	Lump sum expenditure \$
	Nombre de cadres supérieurs par niveau de classification									
Department or Agency / Ministère ou agence	EX01	EX02	EX03	EX04	EX05	Total	Nombre recevant une augmentation du salaire de base	Dépenses pour augmentations salariales \$	Nombre recevant un montant forfaitaire	Dépenses pour montants forfaitaires \$
Office of the Chief Electoral Officer / Bureau du Directeur général des Élections	5	4	3			12	2	8,500	10	74,075
Office of the Commissioner of Official Languages / Commissariat aux langues officielles	5	1	2			8	3	11,760	7	44,214
Office of the Coordinator, Status of Women / Bureau de la Coordonnatrice, Situation de la femme	3	3				6	3	14,685	6	25,768
Office of the Governor General's Secretary / Bureau du Secrétaire du Gouverneur général	6	1	1			8	2	8,700	7	45,111
Office of the Privacy Commissioner / Commissariat à la protection de la vie privée	3	3	1	1		8	3	12,955	0	-
Passport Office / Bureau des Passports	12					12	5	13,141	11	54,643
Prairie Farm Rehabilitation Administration / Administration du rétablissement agricole des Prairies	8	3				11	5	19,155	10	61,379

	Number of executives by classification level						Number receiving in-range movement	In-range salary expenditure \$	Number receiving lump sum	Lump sum expenditure \$
	Nombre de cadres supérieurs par niveau de classification									
	EX01	EX02	EX03	EX04	EX05	Total				
Department or Agency / Ministère ou agence										Dépenses pour montants forfaitaires \$
Privy Council Office / Bureau du Conseil privé	44	15	15	15	3	92	37	166,910	86	744,282
Public Service Commission / Commission de la fonction publique du Canada	26	19	7	5	1	58	20	93,474	58	476,349
Registry of the Federal Court of Canada / Greffe de la Cour fédérale du Canada	4	1	1	1		7			7	54,544
Royal Canadian Mounted Police (Civilian Staff) / Gendarmierie royale du Canada (Personnel civil)	39	14	7	2	2	64	32	167,899	58	452,391
Royal Canadian Mounted Police (Regular Members) / Gendarmierie royale du Canada (Membres)		62	26	1	6	95	24	129,200	85	779,576
Statistics Canada / Statistique Canada	13	51	20	7		91	12	69,173	90	730,063
Transport Canada / Transports Canada	83	31	25	5	1	145	55	314,154	135	1,066,587



[illegible]

[illegible]



Performance Management Program for Executives of the Public Service of Canada Results for 2002-2003  
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Résultats du Programme de gestion du rendement pour les cadres supérieurs de la fonction publique du Canada pour 2002-2003

	Number of executives by classification level									
	Nombre de cadres supérieurs par niveau de classification									
	EX01	EX02	EX03	EX04	EX05	Total	Number receiving in-range movement	In-range salary expenditure \$	Number receiving lump sum	Lump sum expenditure \$
Department or Agency / Ministère ou agence							Nombre recevant une augmentation du salaire de base	Dépenses pour augmentations salariales \$	Nombre recevant un montant forfaitaire	Dépenses pour montants forfaitaires \$
Patented Medicine Prices Review Board / Conseil d'examen du prix des médicaments brevetés										
RCMP External Review Committee / Comité externe d'examen de la GRC										
RCMP Public Complaints Commission / Commission des plaintes du public contre la GRC										
Registry of the Tax Court of Canada / Greffe de la Cour canadienne de l'impôt										
Veterans Review and Appeal Board / Tribunal des anciens combattants (révision et appel)										
Total for departments with 5 or fewer Executives / Total pour ministères ayant 5 cadres supérieurs ou moins de 5	21	22	6	0	0	49	19	94,652	43	342,353
Grand Total / Somme globale	2288	1105	723	209	78	4403	1796	8,976,789	4102	31,621,179



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CANADA

# Debates of the Senate

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3rd SESSION

•

37th PARLIAMENT

•

VOLUME 141

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NUMBER 25

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OFFICIAL REPORT  
(HANSARD)

Friday, March 26, 2004

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THE HONOURABLE DAN HAYS  
SPEAKER





## CONTENTS

(Daily index of proceedings appears at back of this issue).

### OFFICIAL REPORT

#### CORRECTIONS

**The Hon. the Speaker:** Honourable senators, before we go to Orders of the Day, some senators have requested the floor to ask for leave.

**Hon. John Lynch-Staunton (Leader of the Opposition):** Your Honour, I wish to correct a statement that is attributed to me on page 635 of yesterday's Debates. I interrupted Senator Maheu in her thoughts on Bill C-24. She made a reference to two former Diefenbaker cabinet ministers. What I actually said was: Show a little respect. One is not even buried yet. Who I was referring to, of course, is Pierre Sévigny, who is being buried today and who is remembered as a war hero, a distinguished parliamentarian, an author and an educator. It is for this that he should be remembered. Under the circumstances, I think I showed remarkable restraint — commendable, too, I hope.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

[Translation]

**Hon. Marie-P. Poulin:** Honourable senators, I wish to make a correction in the French version of the *Debates of the Senate* of Tuesday, March 23, 2004. I submit that the term "compteur", which appears at the end of the second paragraph, in the second column of page 567, and was used to translate "conversationalist" in English, should be replaced by the word "conteur" in French.

[English]

**The Hon. the Speaker:** Is leave granted, honourable senators.

**Hon. Senators:** Agreed.

**Hon. Shirley Maheu:** Honourable senators, I wish to point out a correction on page 635, after time bullet 1720, where I talk about our neighbours to the south spending the magnificent sum of \$40 million. Hansard indicates the words "munificent sum."

**The Hon. the Speaker:** Honourable senators, is leave granted for the correction?

**Hon. Senators:** Agreed.

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## THE SENATE

Friday, March 26, 2004

The Senate met at 9 a.m., the Speaker in the Chair.

[English]

Prayers.

THE LATE HARRISON MCCAIN, C.C.

[Translation]

### SENATORS' STATEMENTS

#### WORLD THEATRE DAY

**Hon. Viola Léger:** Honourable senators, World Theatre Day was created in 1961 by UNESCO and is celebrated annually on March 27. Various theatre events are organized to mark this occasion, and one of the most important of these is the circulation of the International Message traditionally written by a theatre personality of world stature. This year, 2004, it is Fathia El Assal, Egyptian playwright.

I would like to share with you, on behalf of my theatrical colleagues around the world, a few excerpts from her message.

Theatre is the father of all arts. This is a truth none can contend, and for this reason it is my one and only passion.

I have always believed that playwrights distinguish themselves by their noble human feelings. Their message can thus help people to rise above themselves, to free themselves from their frustrations, from exploitation, and thus be able to gain a sense of dignity.

[...] For in every work of art, the message of the artist has always been geared towards human justice, maturity of expression, and authenticity [...]

I have refused to set down on paper a single phrase that did not emerge from my deepest soul. Not one line that did not express the truth about woman, and about her power of giving. This is why I have asked my pen to take the oath of refusing to write a single line if it were to express weakness or frustration, as well as to refuse to obey me if it felt me cowardly before truth. I then asked it to help me bring to the fore the greatest number of women whose lives I share, by drawing nearer to them and becoming their mouthpiece. We would thus bare ourselves completely before each other, by ridding ourselves of the rust accumulated with the passage of time. We would cry out against all the circumstances and events that have deprived us of the bursting forth of our human powers.

Lastly, I believe that theatre is the light that illuminates the path of mankind. A light that ensures an organic link with the spectator by creating warmth between us.

**Hon. Joseph A. Day:** Honourable senators, on Tuesday of this week, in Florenceville, New Brunswick, businessman Harrison McCain was laid to rest. His life was celebrated by his family, friends and many business and political associates. This chamber was represented at the funeral by former lieutenant-governor and now Senator, the Honourable Marilyn Trenholme Counsell.

To say Harrison McCain was only a sharp businessman would be doing him a genuine disservice. He was also a well-known philanthropist, community leader and prominent citizen in the province of New Brunswick.

After working for the Irving family for a number of years, Harrison McCain and his brothers Wallace, Andrew and Robert invested \$100,000 into the frozen french fry business having investigated a frozen vegetable plant in the neighbouring state of Maine. Although nobody believed they could compete with food industry giants, nor that frozen french fries would be popular outside of a limited geographic area, the brothers plowed ahead, opening their first plant in Florenceville, New Brunswick, on February 25, 1957. The following day, newspapers in the province carried advertisements boasting: "McCain French Fried Potatoes are the World's best, 8-ounce package, 39 cents."

Since that time, due to the determined efforts of all members of the McCain family, the company has expanded into a global empire. Annual sales for 2003 reached \$6.4 billion. The company now employs over 18,000 people in 55 facilities throughout the world. McCains produces one out of every three frozen french-fried potatoes sold in the world.

As evidence of the depth of his influence in the global business world, the Consul General of France in Moncton, New Brunswick, recently presented Harrison McCain's family with France's Legion of Honour in a private ceremony at the McCain residence in Florenceville. As many honourable senators may know, this honour was created by Napoleon Bonaparte in 1804. It is the highest award France can bestow on a foreign citizen. It is given to those who play a significant role in strengthening ties between that European nation and other countries.

Although there were undoubtedly pressures to move the company headquarters to a larger urban centre outside of Florenceville, he and his family were faithful to their hometown of Florenceville, New Brunswick, and their home province.

In addition to putting New Brunswick on the map through his business dealings, Harrison McCain was a generous benefactor to a number of communities throughout New Brunswick. Stories abound about Mr. McCain calling the family of a sick child and telling them not to worry about their medical bills, or how he would make his private jet available to those requiring treatment in other areas.

In addition, he was very supportive of the arts in New Brunswick, contributing to a number of projects at the Beaverbrook Art Gallery in Fredericton.

On behalf of all honourable senators and the people of New Brunswick, I would like to express our deepest sympathies to the McCain family.

(0910)

[Translation]

## ROUTINE PROCEEDINGS

### CANADA-EUROPE PARLIAMENTARY ASSOCIATION

FOURTH PART OF 2003 ORDINARY SESSION  
OF PARLIAMENTARY ASSEMBLY OF COUNCIL  
OF EUROPE, SEPTEMBER 23-OCTOBER 2, 2003—  
REPORT TABLED

**Hon. Lucie Pépin:** Honourable senators, pursuant to rule 23(6) of the Senate, I have the honour to present to the Senate, in both official languages, the report of the Canadian delegation of the Canada-Europe Parliamentary Association on the fourth part of the 2003 ordinary session of the Parliamentary Assembly of the Council of Europe, held in Strasbourg, France, from September 23 to October 2, 2003.

[English]

## OFFICIAL LANGUAGES

### BILINGUAL STATUS OF CITY OF OTTAWA— PRESENTATION OF PETITION

**Hon. Mobina S. B. Jaffer:** Pursuant to rule 4(h), I have the honour to table petitions signed by another 24 people, asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that the Parliament consider the following:

That the Canadian Constitution provides that English and French are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the government of Canada;

That section 16 of the Constitution Act, 1867 designates the city of Ottawa as the seat of government of Canada;

That citizens have the right in the national capital to have access to the services provided by all institutions of the government of Canada in the official language of their choice, namely English or French;

That Ottawa, the capital of Canada, has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners ask Parliament to confirm in the Constitution of Canada that Ottawa, the capital of Canada, is officially bilingual, pursuant to section 16 of the Constitution Act, from 1867 to 1982.

**Some Hon. Senators:** Hear, hear!

## QUESTION PERIOD

### SOLICITOR GENERAL

#### ROYAL CANADIAN MOUNTED POLICE PRESENCE OF CONSTABLES IN DRESS UNIFORM AT LIBERAL NOMINATING MEETING

**Hon. Lowell Murray:** Honourable senators, I inadvertently gave notice of this question yesterday by asking it at the wrong time. I will ask it now.

I want to know what the RCMP is doing supplying two constables in red serge to a Liberal nominating meeting at Portneuf, Quebec, on March 19.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, in spite of the notice, I have not been able to obtain any information that assists me in answering Senator Murray's question.

**Senator Murray:** Naturally, I will await with pleasure the honourable senator's research.

I can tell honourable senators that the reference is to an article in *Le Soleil* of March 23. The article was reprinted in the Library of Parliament issue of "Quorum" of that day. It is stated therein that there were two uniformed policemen from the RCMP at the Liberal nominating convention. The out-going member of Parliament, Mr. Claude Duplain, had asked the RCMP to arrange this. He paid \$640 out of his own pocket for it. The money seems not to have gone to the individual constables but, rather, to the force. Someone speaking on behalf of the force is trying to defend this practice. With the indulgence of the house I will read, in French, the relevant paragraph:

[Translation]

The officer in charge of the detachment, Corporal Marie Damian, explained her decision to delegate two constables by the need "to make ourselves known in Quebec City", through a kind of visibility program.

Normally, for such participation to take place, an event must come under one of the RCMP's five priorities, namely terrorism, youth, organized crime, international police services and aboriginal communities.

[English]

The article does not say in which of those categories the Liberal nominating convention would come.



It seems to me that what is happening here is that it is possible, at least in Quebec, to hire a couple of red-suited RCMP constables to decorate your occasion, be it a Liberal function or something else. While I think it is outrageous that they should be at a partisan meeting, I think it is even more outrageous that they should be used only for decorative purposes.

It occurs to me that now that every second Liberal MP in the House of Commons is a Privy Councillor, you might consider bringing back the Privy Councillor's uniform. There are old photographs of Mackenzie King and others in that uniform. There is probably a warehouse full of them somewhere. You could bring back the Privy Councillor's uniform and decorate these fellows in the House of Commons and send them out to Liberal nominating conventions, rather than compromising the RCMP in this way.

**Senator Austin:** Honourable senators, may I remind Senator Murray that he is a Privy Councillor.

**Senator Murray:** Not one invited to Liberal nominating meetings.

• (0920)

#### POINT OF ORDER

**Hon. Eymard G. Corbin:** Honourable senators, I rise on a point of order. In yesterday's *Debates of the Senate*, column one on page 624, following suspension of the sitting and following Senator Bryden's motion, His Honour put to the house the question in the following terms:

It is moved by the Honourable Senator Bryden, seconded by the Honourable Senator Cools...

On page 620 in column one, the Honourable Senator Bryden, in moving his motion, said:

Honourable senators, I move, seconded by the Honourable Senator Sparrow...

Senator Sparrow's name, when the motion was put to the house by His Honour was changed to Senator Cools. I believe His Honour said at that time that Senator Sparrow was not in the house.

I think the usual form is that the original seconder's name is the one that should stand, whether or not that senator is in the house. If I remember correctly from my occasional days of service in the Chair, the name of the mover stands and the formula ought not to be, "It is moved by the Honourable Senator Bryden, seconded by Senator Cools," but, "It was moved by the Honourable Senator Bryden, seconded by the Honourable Senator Sparrow..."

Of course, I could be wrong. I am sometimes wrong, like everyone else. It is important to know. There is an element of prestige, oftentimes, attached to the mover and seconder. Not everyone wants to move a certain motion for personal reasons,

political reasons or partisan reasons. In this instance, it had been specifically determined; Senator Bryden had definitely checked with Senator Sparrow and he agreed, indeed wanted to be the seconder of that motion. I do not believe we should change what has been a long-standing practice in the way of proper form.

**The Hon. the Speaker:** Are there other comments?

The clarification from the Chair is as follows: The record indicates correctly that Senator Bryden identified as seconder for his motion in amendment Senator Sparrow. However, in the time intervening between moving the motion and the Chair standing to put the motion, Senator Sparrow, unfortunately, was absent from the chamber.

As presiding officer, I took the position that the relevant point in time in moving the motion is when the Chair puts the motion, at the request of the senator moving the motion. That is the answer to the question of why I, as presiding officer, referred to Senator Cools rather than Senator Sparrow.

Senators Bryden, Sparrow and Cools are not here. I am not sure whether this is appropriate, but I do agree with Senator Corbin that Senator Bryden knew Senator Sparrow was in the chamber when he put the motion and that Senator Sparrow should be the seconder. If it was his desire that he be the seconder, perhaps we could make that change with leave. We have often done that.

The mover and seconder must be present at the relevant point in time the presiding officer puts the motion. Sometimes there is no intervening time, and we deal with the motion when it is put by the Chair or the Speaker.

We have dealt with this question as a point of order. If an honourable senator would like to request leave to change the seconder to Senator Sparrow, I think we all would understand why that might be a good idea.

**Hon. Anne C. Cools:** Honourable senators, I would be quite happy, if there is a way to do it, to let Senator Sparrow's name stand, as opposed to mine. As is frequently the practice, His Honour will pull a name from among those he sees present, and in this case he chose me. However, I do not feel wedded to the motion at all, and if there were a way to attach Senator Sparrow's name, I would happily agree to it.

**The Hon. the Speaker:** I think it goes without saying, honourable senators, that we have both Senator Bryden and Senator Sparrow's agreement, even though they are not here. I will take it that Senator Cools is asking for leave to change the name of the seconder from Senator Cools to Senator Sparrow. Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

## ORDERS OF THE DAY

## PARLIAMENT OF CANADA ACT

BILL TO AMEND—THIRD READING—  
MOTION TO DEFER VOTE ADOPTED

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, we heard the oral notice of motion given yesterday. We have in the Orders of the Day an indication that the government will apply that often-used technique of closure —

**Senator Lynch-Staunton:** Shame.

**Senator Kinsella:** — on a matter that speaks to something that directly affects each and every honourable senators of this house. It is a shame that the government side felt they had to bring in closure because in doing so their notice of motion effectively imposes closure not only on the opposition but also on all honourable senators.

We on this side are interested because of the nature of this particular bill and the fact that it affects each and every honourable senator. We want to ensure that every senator has advance notice and that it is clear when the final decision will be taken on this bill.

Therefore, this side agrees with the government side that a certain time, pursuant to rule 38, should be given. Since we do have this agreement, my colleague Senator Rompkey may wish to put it forward in a formal sense.

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, I thank Senator Kinsella for his remarks. Indeed, there have been discussions. If it is agreeable, I move, seconded by Senator Austin and pursuant to rule 38:

That, in relation to Bill C-4, to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer), no later than 5 p.m. Tuesday, March 30, 2004, any proceedings before the Senate shall be interrupted and all questions necessary to dispose of third reading of the Bill shall be put forthwith without further debate or amendment, and that any votes on any of those questions be not further deferred; and

That if a standing vote is requested, the bells to call in the Senators be sounded for thirty minutes, so that the vote takes place at 5:30 p.m.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

(09:30)

## BUSINESS OF THE SENATE

**Hon. Bill Rompkey (Deputy Leader of the Government):** Your Honour, I should like to call the orders in the following sequence. First, No. 2, Bill C-26; second, No. 5, Bill C-24; and third, No. 1, Bill C-4. The other Orders of the Day, when we get to them, will stand.

## APPROPRIATION BILL NO. 4, 2003-04

## BILL TO AMEND—THIRD READING

**Hon. Joseph A. Day** moved the third reading of Bill C-26, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004.

He said: Honourable senators, I shall be brief. I spoke on this matter yesterday at second reading. This bill deals with Supplementary Estimates (B) for the fiscal year ending at the end of this month, and it deals with the expenditure of \$1.9 billion of voted expenditures, all within the planned spending set out by the Minister of Finance. I would urge honourable senators to support the bill.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** I will put the question, seeing no senator rising to speak.

It was moved by the Honourable Senator Day, seconded by the Honourable Senator Phalen, that the bill be read the third time now. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

## PARLIAMENT OF CANADA ACT

BILL TO AMEND—SECOND READING  
ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Morin, seconded by the Honourable Senator Downe, for the second reading of Bill C-24, to amend the Parliament of Canada Act.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Stand.

**Hon. Bill Rompkey (Deputy Leader of the Government):** I indicated, Your Honour, that I wanted to call No. 5 as the second order of the day.

**Senator Kinsella:** He just called it.

**The Hon. the Speaker:** It was called, and a request has been made to stand it. Is it to stand?

**Senator Austin:** Senator Kinsella said "stand."

**Senator Rompkey:** I believe Senator Morin wants to speak to it.

**Senator Kinsella:** He spoke yesterday.

**The Hon. the Speaker:** Is it to stand, honourable senators?



Hon. Senators: Agreed.

Order stands.

# PARLIAMENT OF CANADA ACT

## BILL TO AMEND—THIRD READING— MOTION IN AMENDMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Austin, P.C., seconded by the Honourable Senator Rompkey, P.C., for the third reading of Bill C-4, to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence,

And on the motion in amendment of the Honourable Senator Bryden, seconded by the Honourable Senator Cools, that the Bill be not now read a third time but that it be amended,

(a) on page 1, in the English version, by replacing the long title with the following:

"An Act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Counsellor) and other Acts in consequence";

(b) in clause 2,

(i) on page 1, by replacing lines 8 to 27 with the following:

"20.1 (1) Subject to subsection (2), the Senate shall, by resolution and with the consent of the leaders of all recognized parties in the Senate, appoint a Senate Ethics Counsellor.

(2) If the position of Senate Ethics Counsellor is vacant for 30 sitting days, the Senate shall, by resolution and after consultation with the leaders of all recognized parties in the Senate, appoint a Senate Ethics Counsellor.

20.2 The Senate Ethics Counsellor shall be a member in good standing of the bar of a province or the Chambre des notaires du Québec.

20.3 (1) The Senate Ethics Counsellor holds office during good behaviour for a term of seven years and may be removed for cause, with the consent of the leaders of all recognized parties in the Senate, by resolution of the Senate.

(2) The Senate Ethics Counsellor, on the expiration of a first or subsequent term of office, is eligible to be re-appointed for a further term not exceeding seven years."

(ii) on page 2, by deleting lines 1 to 49,

(iii) on page 3,

(A) by deleting lines 1 to 12,

(B) by replacing lines 13 to 18, with the following:

"20.4 (1) The Senate Ethics Counsellor shall assist members of the Senate by providing confidential advice with respect to any code of conduct adopted by the Senate for its members and shall perform the duties and functions assigned to the Senate Ethics Counsellor by the Senate.", and

(C) by replacing line 43, with the following:

"20.5 (1) The Senate Ethics Counsellor, or any",

(iv) on page 4, by deleting lines 16 to 24, and

(v) in the English version, by replacing the expression "Senate Ethics Officer" with the expression "Senate Ethics Counsellor" wherever it occurs;

(c) in clause 4, on page 7, by replacing line 8, with the following:

"72.06 For the purposes of sections 20.4,";

(d) in clause 6, on page 11, by replacing lines 37 and 38, with the following:

"(d) the Ethics Commissioner";

(e) in clause 7, on page 12, by replacing lines 7 and 8, with the following:

"any committee or member of either House or the Ethics Commis-";

(f) in clause 8, on page 12,

(i) by replacing lines 14 and 15, with the following:

"(c) with respect to the Senate, the", and

(ii) by replacing lines 28 and 29, with the following:

"Commons, Library of Parliament and office of";

(g) in clause 9, on page 13, by replacing the heading before line 1, with the following:

"SENATE, HOUSE OF COMMONS, LIBRARY  
OF PARLIAMENT AND OFFICE OF  
THE ETHICS COMMISSIONER";

(h) in clause 10, on page 13,

(i) by replacing line 7, with the following:

"ment", and

(ii) by replacing lines 14 and 15, with the following:

"Parliament or office of the Ethics Commis-";

(i) in clause 11, on page 13, by replacing lines 21 and 22 with the following:

“brary of Parliament and office of the Ethics Com-”;

(j) in clause 12,

(i) on page 13,

(A) by replacing line 30, with the following:

“Parliament”, and

(B) by replacing line 36, with the following:

“Parliament”, and

(ii) on page 14,

(A) by replacing line 3, with the following:

“ment or”,

(B) by replacing lines 6 and 7, with the following:

“of Commons, Library of Parliament or office of the”,

(C) by replacing line 12, with the following:

“ment or”,

(D) by replacing lines 16 and 17, with the following:

“House of Commons, Library of Parliament or office of”,

(E) by replacing lines 25 and 26, with the following:

“mons, Library of Parliament or office of the Ethics”,

(F) by replacing line 33, with the following:

“ment or”, and

(G) by replacing line 38, with the following:

“Parliament”;

(k) in clause 13,

(i) on page 14, by replacing lines 47 and 48, with the following:

“Commons, Library of Parliament or office of”, and

(ii) on page 15,

(A) by replacing lines 13 and 14, with the following:

“of Parliament or office of the Ethics Commis-”,

(B) by replacing lines 22 and 23, with the following:

“of Parliament or office of the Ethics”, and

(C) by replacing lines 35 and 36, with the following:

“ment or office of the Ethics Com-”;

(l) in clause 14,

(i) on page 15, by replacing lines 43 and 44, with the following:

“brary of Parliament or office of the Ethics Commis-”, and

(ii) on page 16, by replacing lines 6 and 7, with the following:

“Parliament or office of the Ethics Commission-”;

(m) in clause 15,

(i) on page 16,

(A) by replacing lines 14 and 15, with the following:

“House of Commons, Library of Parliament or office of”,

(B) by replacing lines 20 and 21, with the following:

“Library of Parliament or office of the Ethics Commis-”,

(C) by replacing line 29, with the following:

“ment or”,

(D) by replacing lines 34 and 35, with the following:

“House of Commons, Library of Parliament or office of”, and

(E) by replacing lines 41 and 42, with the following:

“brary of Parliament or office of the Ethics Commis-”, and

(ii) on page 17, by replacing line 1 with the following:

“ment or”;

(n) in clause 16, on page 17, by replacing lines 11 and 12, with the following:

“mons, Library of Parliament or office of the Ethics”;

(o) in clause 17, on page 17, by replacing lines 20 and 21, with the following:

“Library of Parliament or office of the Ethics Commis-”;



(p) in clause 18, on page 17, by replacing line 30, with the following:

“ment”;

(q) in clause 25, on page 20, by replacing lines 26 and 27, with the following:

“Library of Parliament or office of the”;

(r) in clause 26, on page 20, by replacing lines 36 and 37, with the following:

“(c.1) the office of the Ethics”;

(s) in clause 27, on page 21, by replacing line 9, with the following:

“Parliament”;

(t) in clause 28, on page 21,

(i) by replacing lines 20 and 21, with the following:

“Library of Parliament or office of the Ethics Commis-”, and

(ii) by replacing lines 28 and 29, with the following:

“Commons, Library of Parliament or office of the”;

(u) in clause 29, on page 22, by replacing lines 14 and 15, with the following:

“Commons, Library of Parliament and office of the Ethics”;

(v) in clause 30, on page 22, by replacing lines 24 and 25, with the following:

“Library of Parliament or office of the Ethics Com-”;

(w) in clause 31, on page 22, by replacing line 33, with the following:

“ment”;

(x) in clause 32, on page 22, by replacing lines 38 and 39, with the following:

“of Parliament or office of the Ethics Commissioner,”;

(y) in clause 33, on page 23,

(i) by replacing line 3, with the following:

**“word “or” at the end of paragraph (b), by adding the word “or” at the end of paragraph (c) and”, and**

(ii) by replacing lines 6 to 8, with the following:

“(d) the office of the Ethics Commissioner”;

(z) in clause 34, on page 23, by replacing lines 15 to 17, with the following:

“(c.1) the office of the Ethics Commissioner”;

(z.1) in clause 36, on page 24, by replacing lines 11 and 12, with the following:

“Commons, Library of Parliament and office of the”;

(z.2) in clause 37, on page 24,

(i) by replacing line 22, with the following:

“Parliament”, and

(ii) by replacing line 31, with the following:

“ment or”;

(z.3) in clause 38, on page 25, by replacing lines 12 and 13, with the following:

“any committee or member of either House or the Ethics Commis-”;

(z.4) in clause 40,

(i) on page 28,

(A) by replacing lines 4 and 5, with the following:

“communes, à la bibliothèque du Parlement ou”,

(B) by replacing lines 17 and 18, with the following:

“ment ou au commissariat à l'éthique par”,

(C) by replacing lines 28 and 29, with the following:

“House of Commons, Library of Parliament or office of”,

(D) by replacing lines 34 and 35, with the following:

“Library of Parliament or office of the Ethics Commis-”, and

(E) by replacing line 43, with the following:

“ment or”, and

(ii) on page 29,

(A) by replacing lines 2 and 3, with the following:

“House of Commons, Library of Parliament or office of”,

(B) by replacing line 13, with the following:

"ment or",

(C) by replacing lines 19 and 20, with the following:

"brary of Parliament or office of the Ethics Commis-",

(D) by replacing line 26, with the following:

"ment or", and

(E) by replacing lines 38 and 39, with the following:

"Commons, Library of Parliament or office of the Ethics", and

(iii) on page 30,

(A) by replacing lines 5 and 6, with the following:

"Library of Parliament or office of the Ethics Commis-",

(B) by replacing lines 20 and 21, with the following:

"Library of Parliament or the office of the",

(C) by replacing lines 25 and 26, with the following:

"Commons, the Library of Parliament or the",

(D) by replacing lines 36 and 37, with the following:

"Commons, the Library of Parliament or the", and

(E) by replacing lines 42 and 43, with the following:

"Parliament or the office of the Ethics Commis-"; and

(z.5) in clause 41, on page 31,

(i) by replacing lines 23 and 24, with the following:

"Commons, Library of Parliament and office of the", and

(ii) by replacing lines 43 and 44, with the following:

"Commons, Library of Parliament and office of the".

**Hon. Terry Stratton:** Honourable senators, although Senator Bryden is not in the chamber, I commend him on the work that he did with respect to this amendment. It was quite comprehensive.

**Senator Austin:** Is this the 45-minute speech?

**Senator Stratton:** No. That was reserved for Senator Oliver. However, the government leader is taking time away from my 15 minutes.

I shall be brief, honourable senators, because I should like to continue on Monday, given the comprehensive amendment before us. A tremendous amount of work went into it.

My concern with this bill is that it is fundamentally a continuation of the Howard Wilson syndrome — that is, that once appointed by the Prime Minister, this individual, the ethics officer in this chamber, will be seen as such. My other concern is that if this chamber appoints such an officer, then the same perception will be in the minds of the public. Therefore, I have two problems, which I would like to expand upon in my speech Monday evening or Tuesday.

The only way I can see the public accepting or comprehending this office as being transparent is to have an outside resource. In other words, perhaps a couple of retired judges or individuals who command respect in the country could be used as a reference by the ethics officer appointed by this chamber, because if appointed by this chamber, then those individuals could be used as a reference with respect to any case.

I rather admire the way that Britain is moving with respect to the appointment of judges, for example. They are actually examining ways of getting the public involved in vetting appointments. I think we should follow that route.

During the hearings on Bill C-4 in the Standing Committee on Rules, Procedures and the Rights of Parliament, we heard that the easiest way for us to provide the transparency demanded by the public would be to have that individual appointed not by the Prime Minister but by this chamber. That would allow a greater degree of flexibility in making those changes occur. As I said during the hearings, this is really just the first step. This step alone is not sufficient. The public will demand and is demanding more.

Why clone the Howard Wilson syndrome for this chamber on the basis that — the public will believe in the credibility of that individual simply because he or she is appointed by the Prime Minister? The appointment must be made by this chamber, and the process must be made more transparent by having as references lay people or experts in the field of law to whom we can go in particular times.

I believe strongly that the public will not buy either of the solutions that we are proposing. I fundamentally do not believe it. The one they will buy least of all is the one proposed by the government, involving the appointment by the Prime Minister.

Having said that, I should like to reserve the balance of my time for next week.

**The Hon. the Speaker:** Honourable senators, this is a little unusual, but is it agreed that Senator Stratton speak again, for the balance of his time. at the next sitting?

**Hon. Senators:** Agreed.

**Hon. Eymard G. Corbin:** Should we interpret this as an adjournment of the debate or not?



**Some Hon. Senators:** No.

**Senator Corbin:** I have never seen this before.

**The Hon. the Speaker:** I am not interpreting this as an adjournment of the debate, because I know, since I have been told, that other senators wish to speak today. Senator Stratton did not move adjournment. Senator Stratton obviously wishes to use the balance of his time next week — which is why I asked honourable senators if it is agreed that he be entitled to do that.

Is it agreed?

**Senator Corbin:** Has this ever happened before? Is this an innovation?

**The Hon. the Speaker:** I have no idea; however, I see no reason why we cannot do it.

**Hon. Anne C. Cools:** Honourable senators, if I might be of assistance to His Honour, the Senate has already agreed that Senator Stratton could have his whole 45 minutes, and he can —

**Senator Stratton:** Fifteen minutes.

**Some Hon. Senators:** No, no.

• (0940)

**Senator Cools:** Is he not the second speaker on Bill C-4?

The fact of the matter is that a senator may speak for a few minutes and then take an adjournment and continue for his full time later. Because it is a government bill, all it takes is for the floor to be yielded the next day, which it is automatically, since it is government business. Therefore, no leave of the Senate is required for him to be allowed to continue for his full time.

**Hon. Bill Rompkey (Deputy Leader of the Government):** Your Honour, we had agreed that we would continue with the debate on Bill C-4 today. I did not know that Senator Stratton wanted to speak today. We gave Your Honour a list of speakers who wanted to speak on our side, and in my discussions this morning, there was no indication that Senator Stratton wanted to speak.

However, he has every right to speak, and he has spoken, and we on our side had agreed that Senator Oliver would have the 45 minutes of the opposition time reserved for him for Monday when he wants to speak, and we hold to that agreement.

Today, we have no objection that, when Senator Stratton speaks later, he would have the rest of the time available to him, as long as the speakers on this side have an opportunity to speak.

**Senator Corbin:** Honourable senators, I understand the situation. By unanimous consent, you can do everything. You can even throw the rule book in the blast furnace, if you wish. I do not agree with what Senator Rompkey has just said. He has given

the Speaker a list of speakers. I do not think that should be interpreted as an imposition on the Chair. The Speaker recognizes whoever rises.

**The Hon. the Speaker:** Of course, that is what happened here.

Is it agreed, honourable senators, that Senator Stratton be allowed to rise again to speak to this matter at the next sitting for the balance of his time, and that we proceed now with other speakers?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Are there other speakers?

**Hon. David P. Smith:** Honourable senators, I rise today to speak on Bill C-4, and this is a bill that I support. I support it wholeheartedly, without amendment. I want to go over the reasons why my head is where it is.

First, this bill represents good public policy because it is a balanced way of responding to what I believe is a growing public desire for a structure that is designed to ensure that there are the highest ethical standards for parliamentarians. If anything, given the current climate that prevails, that will be a growing desire.

Canada enjoys an international reputation as being a country that is relatively free of corruption.

**Senator Stratton:** We just dropped 10 points.

**Senator Smith:** I know there are things happening at the moment and the government in place wants to get to the bottom of them, and I think we will. The reason there is concern about certain events is that hitherto, we have had a high standard. Michael Bliss, who is not noted for being a sycophant of this government, recently stated in a *National Post* article that Canada is near the top in all quality of governance rankings, and he says that the key is the expectations of Canadians. Let me quote from what he said in that article:

It is precisely because of our very high expectations about government that we keep raising the bar of political conduct. We expect higher and higher standards of political behaviour.

At his recent appearance before the Rules Committee, the Minister of Justice, Mr. Cotler, went further, stating that "ethics in governance" is itself a "fundamental pillar of democracy."

Honourable senators, I believe that the government is raising the bar on ethical political conduct and that Bill C-4 is an integral and essential part of this process to ensure that Canada remains at the top of quality governance. We must ensure that Canadians have the utmost confidence in their decision-makers, and as the Senate, one of the chambers, we are key players in this. I regret to say that compared with the other place, we have not been leading in this debate. We have been dragging our feet. I say that collectively; it is not pointed at anyone. However, I do not think we have dealt with this issue and tried to move forward in the same way that the other place has done.

I believe that the Canadian Senate does good work. I believe it is an invaluable institution. That is why I decided to come here. If I did not feel that way, I would not have bothered. However, this place will be less effective than it could be if we do not come to grips with putting good ethics legislation in place that covers the Senate. I believe the bill that is before us moves toward doing that. All this bill does is provide for the appointment of a Senate ethics officer to perform duties and functions assigned to that officer by the Senate. Is that startling? Is that troubling? It does not startle or trouble me. It would trouble me if we rejected that and could not live with it. That would trouble me.

Some people have raised the issues of constitutionality and the privileges of the Senate. With regard to the question of privilege, I do not believe it is an issue here. The historic rights and privileges of the Senate are not negatively prejudiced in any meaningful way whatsoever, in my view. On the issue of constitutionality, which is linked to some extent to the question of privilege, the Minister of Justice, when he appeared before the Rules Committee, stated the following:

... essentially, the question is whether or not Bill C-4 provides privileges, immunities and powers that exceed the powers possessed by the British House of Commons and its members in 1867 and now.

He was very convincing that Bill C-4 in no way contravenes or oversteps these privileges, immunities and powers. Mr. Cotler is quite a serious constitutional authority and law professor from McGill who is well respected within the profession.

He also stated the following:

In a word, to the extent that Bill C-4 relates to these forms of ethical conduct by senators, the subject-matter of the bill falls within the traditional jurisdiction of the British House of Commons over its members and therefore is in accordance with section 18 of the Constitution Act, 1867. One might also add that it clearly falls within the jurisdiction of the Canadian Parliament, regarding the powers and privileges of its members as set forth under section 44 of the Constitution Act, which confers on the federal Parliament over the House of Commons and the Senate those appropriate powers. That's good enough for me.

I am satisfied that there is not a constitutional issue here, and I do not want to dwell on that.

What seems to have troubled senators, to the extent that some senators are troubled, is the appointment process. The primary area of consternation has been the appointment process of the Senate ethics officer, given that it will be a Governor in Council appointment. Many are concerned that this appointment in one sense will be made by the Prime Minister without regard to Senate input.

That is not a concern of mine. All we have to do is read the bill. What is quite clear is that there is a double veto. I think that it is desirable to have a double veto.

**Senator Lynch-Staunton:** Where? Where in the bill is that?

**Senator Smith:** It is at page 1, clause 20.1:

The Governor in Council shall, by commission ... appoint a Senate Ethics Officer after consultation with the leader of every recognized party in the Senate and after approval of the appointment by resolution of the Senate.

**Senator Stratton:** Where does it say "double veto"?

**Senator Smith:** If you will relax, I will try to answer that.

**Senator Stratton:** Where does it say we have a word?

**Senator Lynch-Staunton:** There is no veto.

• (0950)

**Senator Smith:** You have to have both a Governor in Council appointment and a Senate approval. Let me point out —

**Senator Lynch-Staunton:** Like the previous Privacy Commissioner? The same formula.

**Senator Smith:** He is gone.

Let me point out something that may not have registered in the minds of my friends opposite.

The Prime Minister is accountable. The Prime Minister, regardless of who occupies that office and regardless of what party is in government, is accountable.

**Senator Stratton:** To whom?

**Senator Smith:** That is very relevant, and so I think —

**Senator Stratton:** Tell us about Howard Wilson.

**Senator Smith:** I seem to be troubling my friends opposite here, but I think the concept is one of having what I would regard as a double veto. If my friends opposite do not view it that way they can stand up — and I will not interrupt them — and describe how they view it. I happen to think it amounts to a double veto; in other words, a Governor in Council appointment plus Senate approval.

People say, "Oh, well, they'll just ram it through." I do not think anything could be further from the truth, because that is not the culture of this place. Some years ago, I sat in the other place, and there is very much a different culture there.

If anyone wants evidence that this chamber cannot be force-fed, the mere fact that Senator Bryden's amendment passed in November with the support of more than 20 members of this side of the house, when the whip was on, is clear evidence of a different culture here. I did not happen to agree with that amendment; I do not happen to agree with the amendment now. However, I think the leverage that is in there, by requirement of and after approval of the appointment by resolution of the Senate, is very meaningful.



Now, why is this meaningful? It is meaningful because it establishes a certain degree of independence that otherwise would not be there. The same procedure is used for the House of Commons. If we do it by the amendment, by resolution, what it means is that the Senate itself can hire and fire, unilaterally and arbitrarily, in a way that the Commons cannot do. I believe that would undermine the credibility and any sense of independence of whoever occupies that office. I firmly believe that.

Ted Hughes, who is the dean of ethics officers in this country, was quite clear when he appeared before the committee. On March 18, 2003, in an appearance before our Rules Committee, Mr. Hughes said this:

...when the time comes for you to select a conflict or integrity or ethics commissioner or counsellor...you will find that you will work to come up with an eminent nominee who will enjoy the confidence of the whole house.

Honourable senators, I believe in fact that that is exactly what will happen.

With regard to the convention introduced by Senator Austin — I was comfortable before the convention was introduced, but, if anything, the convention, in my opinion, reinforces that what will happen is that we will sit down and do it by agreement and by consensus. There has been a lot of unnecessary cynicism about this initiative. Of course, a convention has to start somewhere, some time, some place, but I think that, if anything, that is the right direction in which to move.

I am afraid that if this amendment does carry, and the Senate can just hire and fire its own ethics officer unilaterally and arbitrarily on a whim, without that double veto, it will not look too good.

My father was a minister and my grandfather was a minister — not cabinet ministers but preachers. I am a preacher's kid. When you fall into that category, whether you like it or not, you learn a lot of scriptures and hymns, and they are always coming to mind. During the recent debate on this issue, one verse has come to mind that has really troubled me, and that verse is, "Touch not the Lord's anointed." If that is the vibe that this chamber gives off, and if this chamber is incapable of dealing in a positive way with this issue of ethics right now, it will, I believe, have a very negative impact on this chamber's reputation and on this chamber's future.

**Some Hon. Senators:** Hear, hear!

**Senator Smith:** We would define this place in a negative way, if we were to do that. I fervently believe that. There are many cynics out there about this place. This place will never be appreciated and understood by the general public because of one very simple fact — and honourable senators all know what that is: We are appointed.

[ Senator Smith ]

If those who are appointed put in place something that does not have the minimum requirements that the other place has passed twice — not only have they passed it twice, they have passed it with the support of four of the five parties — if we reject it again and obstruct the process torpedo it, then "Touch not the Lord's anointed" is the vibe we will give off, which will have negative consequences for us, I believe.

I have spoken long enough, although I have more quotes in my notes.

Honourable senators, I believe the government wants to deal with the issue of integrity. This is not an easy time to be in public life — and I do not say this in a partisan way whatsoever. When things happen like what is going on right now, it troubles all of us. We all want to get to the bottom of it. We all want to see people who are accountable held accountable for whatever did happen. A side effect of all of this will be a greater and stronger desire of Canadians as a whole to be assured that parliamentarians are taking a lead in putting in place a structure to ensure high ethics. If we are dragging our feet and not taking the lead, we will pay for this. That is why I will be supporting this bill without amendment, and I hope that most honourable senators will do likewise.

**Some Hon. Senators:** Hear, hear!

**Hon. John Lynch-Staunton (Leader of the Opposition):** Will my preaching lawyer friend allow a question?

**Senator Smith:** Certainly.

**The Hon. the Speaker pro tempore:** I regret that the Honourable Senator Smith's time has expired.

**Senator Lynch-Staunton:** In your opening remarks —

**The Hon. the Speaker pro tempore:** Is leave granted to extend the time, honourable senators?

**Senator Smith:** I would ask for leave for extended time, to answer my friend's question.

**Hon. Senators:** Agreed.

**Senator Lynch-Staunton:** I should like to ask an uninterrupted question.

In his opening remarks, Senator Smith emphasized the fact that the government is eager to discover, as quickly as possible, the answers regarding the mess that we read about each day. The House of Commons Standing Committee on Public Accounts is sitting, a special counsel has been hired to recover as much as possible any misappropriated funds, and a commission of inquiry has been set up.

Would my honourable friend agree with me and deplore the fact that the commission of inquiry has announced its schedule and will not start hearing witnesses until September? I find it extraordinary that a commission of inquiry set up four or five weeks ago will not begin hearings as such until seven months after its creation.

Would Senator Smith not agree with us that, if we want to get to the bottom of things, a commission of inquiry independent of Parliament is the best way to do so and that we should urge it to start its hearings much sooner? I am sure it is equipped to do so.

**Senator Smith:** The purpose and rationale of a judicial inquiry is to take it out of the political arena, where these things can sometimes turn into mob scenes.

I would have been quite surprised had the inquiry decided to commence its hearings any sooner, because there will be many top-tier lawyers who have clients whose futures are very much at stake and who will want answers to certain complex legal questions before any of them take the witness stand. The judge will want to review a lot of documents in a considered, thoughtful and fair legal manner with respect to due process. I appreciate how frustrating that may be, but it will take a long time if it is done right.

(1000)

The honourable senator just reminded me about another concern with the amendment; that is, its requirement that the ethics counsellor be a lawyer. I am a lawyer, but I certainly do not agree with that requirement. The other day, I was thinking of some of the people who have sat in the other place who had very high ethical standards. I looked at the list of Privy Councillors and saw Lloyd Axworthy, Perrin Beatty, David Crombie, Ed Broadbent and the late Tommy Douglas and Stanley Knowles. None of those people were lawyers and would not have been eligible for this position. That, in itself, is a good reason to defeat the amendment that requires that the position be filled by a lawyer.

I understand my friend's frustration. At the moment, a judicial inquiry is being conducted by a judge of the Superior Court of Ontario into the MFP scandal, a computer leasing matter in the city of Toronto. It has been going on for 18 months. It seems that it has become an annuity for some of the lawyers involved. I hope that this will not occur here, but these are complex legal issues that must be dealt with. People must be given due process, and that takes time, as frustrating as it may be.

**Senator Lynch-Staunton:** That confirms what many of us suspect; that the commission of inquiry takes the issue out of the political arena and allows as much time as possible for it to come to a conclusion, which could be in one, two or three years, which serves this government very well. That is the purpose of setting up the commission of inquiry, as I understand it, and the honourable senator's remarks have confirmed that fact.

**Senator Smith:** There is a two-track procedure in place because the Public Accounts Committee was sitting even when the House of Commons was in recess a couple of weeks ago. That process is underway, which is good. It is healthy and it will continue.

**Senator Lynch-Staunton:** The Public Accounts Committee is doing what it can with limited resources, but as soon as dissolution takes place, the Public Accounts Committee will disappear. All we will be left with is a special counsel working by himself, and the issue will be gone.

**Senator Cools:** In his remarks, Senator Smith referred to a mob scene. He said that the judicial inquiry was set up to avoid a mob scene. It is always difficult to hear parliamentary things described in those terms.

Incidentally, honourable senators, royal commissions are not judicial inquiries. They may use judges, but a judicial inquiry is a different beast. A judicial inquiry has powers to adjudicate, not only investigate, questions. That is a small point.

Does Senator Smith agree that if Parliament and its committees were given more resources, even the resources that royal commissions utilize, parliamentarians would be better equipped to do a better job rather than conducting what the honourable senator described as a mob scene?

We lived through the Somalia commission, and I had many problems with it. I was told that at one point it employed about 50 lawyers at a cost of thousands of dollars per day.

Does Senator Smith think that if members of Parliament were given more resources situations like the one involving Groupaction could be avoided?

Senator Smith spoke with great sincerity. This bothers us all. It bothers me deeply every time I see something about it on television. I continually muse about how we can avoid this kind of thing because, at the end of the day, it hurts everyone.

Does the honourable senator not think that the resources that go to royal commissions would be better allocated to members of Parliament?

The Department of Justice has approximately 3,000 lawyers. We here in our offices have tiny little staffs and tiny little budgets. Keeping in mind the tendency for things to balloon and the tendency for human beings to build empires, does the honourable senator not think that money that would go to a Senate ethics office would be better allocated to Senate inquiries and investigations so that such situations as this can be dealt with early on?

**Senator Smith:** I will try to answer this question fairly. The political process in this country, as in all democratic countries, is, by definition, partisan. There is nothing wrong with that; that is just the way it is.

If my reputation and my future were on trial, I would not want that trial conducted in a partisan arena. I would want to be dealt with in an arena where the rule of law is upheld and where my rights under the Bill of Rights or the Charter are respected and enforced.

I do not disagree that it would be nice if parliamentary committees of both Houses had more resources. I also think that a judicial inquiry will find out a lot more about what happened and who did what than will the committee of the House because it is inevitable that people will be trying to score partisan points. However, when your future, your reputation and your career are at stake, you want an inquiry conducted in an impartial venue.



**Hon. A. Raynell Andreychuk:** Senator Smith said that there would be consultation. That is the word used in the act. Will he define what consultation means to him in the context of Bill C-4?

**Senator Smith:** I believe that, as Senator Austin said, it means consensus and agreement. That is the way I interpret it. As long as I am in this place, you can remind me of what I have said here in the event it ever becomes an issue.

I believe that what the convention articulates is what will and would have happened anyway. In this chamber, we only have two recognized parties, although there may at some time be a third. It would be crazy not to proceed by agreement and consensus. That is not to say that some individual hold-out could not have a veto, but I believe that it would proceed on consensus and agreement between the government and opposition sides.

[Translation]

**Hon. Maria Chaput:** Honourable senators, as I prepared my speech for the debate on Bill C-4, to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence, I reviewed various speeches by my honourable colleagues to refresh my memory.

I well remember last fall and a question that kept coming to mind as I listened attentively to the debates — often quite passionate — of my honourable colleagues.

Are our debates really geared towards producing a bill that will improve the quality of our governance and boost the public's confidence in the Senate, or are our arguments based on fears and worries? Or is it that we are not convinced of the need for change?

I must say that the same questions occurred to me again as I reread the documents, and for these questions I have no answers. Whether these questions are legitimate or not, that is my perception and it is real to me.

• (1010)

It is a matter of the perception Canadians have of the Senate. There is no lack of criticism about the Senate. It is not a matter of whether this is an honest debate or whether the criticism about the Senate is founded; it is a matter of perception. According to Rousseau, "all our perceptions or ideas are born out of an active principle which judges".

Honourable senators, Canadians have judged us. Do we have a distinct perception of the consequences for the Senate if we refuse to pass Bill C-4? In my opinion, there is no more fundamental responsibility than that of adopting and respecting the strictest possible ethics standards for those charged with managing public affairs.

We require organizations, institutions and community and non-profit associations to develop and implement a code of

ethics, policies and performance measures, all of which must be in place in order for them to receive financial support from our government.

The Senate currently observes these basic principles of responsible conduct, accountability and transparency. Consequently, some senators are not convinced that a change is necessary since, to date, we have succeeded in respecting our own ethics rules.

But the Senate is not perfect, and we must constantly seek ways to improve it. Guided by these principles, we can enhance its effectiveness and credibility by having a Senate ethics officer to ensure that our code of ethics is enforced.

The upper chamber is completely independent. Numerous senators have spoken about their fear of losing, damaging or restricting this independence. However, I believe that senators are truly independent because they are appointed and representative of the people, not the people's representatives. The upper house must maintain this independence, but such independence does not mean the Senate can disregard ethics or accountability, that it can ignore the public we are representative of.

Honourable senators, integrity is the foremost issue right now, whether in government, the private sector or elsewhere. An institution's work can be discredited in the blink of an eye by the unfortunate conduct of just one person. Parliamentarians are entitled to decide how to carry out their duties. However, parliamentarians are also human and no one is exempt from human weaknesses. Why not have a framework to help us be even more credible and to strike a certain balance with the public's trust? Why not have the necessary institutional structure to move forward?

As the Honourable Sharon Carstairs said on November 4, 2003:

[...] Bill C-34 is the culmination of over 3 decades of work by honourable senators and members in the other place on conflict of interest rules for Parliament. The bill is framework legislation. It neither changes existing conflict of interest rules of the Senate nor enacts additional rules in this area. Thus, it will be for the Senate alone to establish rules of conduct that respect the privileges, immunities and practices of this house. All confidentiality rules governing the declaration of conflicts of interest and the registration or publication of assets would be established by the Senate and the Senate alone. The Senate would be within its rights to limit disclosure as the other place has done in the code of conduct report from committee and as the Milliken-Oliver report has recommended. To those senators who suggest that we need more time to study this issue, I would say that we have been studying this issue for 30 years. We have, in Bill C-34, a balanced approach that is the culmination of our work.

We are committed, honourable senators, to implementing a code of ethics. However, we need an institutional framework as an essential component of the process of renewing our commitment to integrity and ethics in this house.

In my opinion, one does not draft a law solely to right a wrong. Laws are also drafted in order to prevent a wrong or ensure that good continues to prevail. In the health sector, for example, diseases must be treated, but the importance of prevention is now recognized as well. Creating the position of ethics officer may be considered a preventive measure. "An ounce of prevention is worth a pound of cure," said our grandparents.

We have before us a bill that could contribute to improving the quality of governance in Canada, boosting public confidence in the Senate, respecting the Senate's particular characteristics, and ensuring greater transparency and credibility.

Would it not be opportune to adopt it?

I support those who say that the foundation of an effective government is the confidence of the people, and that this confidence is undermined when ethical standards waver or appear to waver. Simply a question of perception by Canadians, some of you will say. But perception is reality! I do not think this question can be put off any longer.

Honourable senators, the time has come to follow suit and create the position of ethics officer, and I hope that the vast majority of senators will agree with me.

*English]*

**Senator Andreychuk:** I am very much interested in the honourable senator's emphasis on perception. I would like a clarification. I think she was trying to assure honourable senators that there is nothing in this bill that will change what is presently in the code and in the rules. Am I correct? That is how I read it. What we have in our rules will continue. We are looking again at those rules in relation to work that we are doing elsewhere, but this bill will not change that. Does the honourable senator agree?

*Translation]*

**Senator Chaput:** The message I wanted to get across was this. I see this bill as one setting out the basic principles. The code of ethics covers the implementation, that is the way we will comply with this legislation. The senators are the ones who will determine the content of the code of ethics. I do not see why there would be one without the other. I do not know if that answers your question.

*English]*

**Senator Cools:** I have listened carefully to what the honourable senator has said. She seems to use the word "government" interchangeably with "Parliament." That is what I heard. This happens often. It is a common thing.

To my mind, the ethics of Parliament is a different matter from the ethics of governments. All should be ethical. I do not think there is any disagreement that all behaviour in public life should be ethical. The honourable senator must admit that that has obtained for centuries without these kinds of bills. I do not believe for a moment that this bill will make a single person here more ethical.

My question to the honourable senator is the following: Does she not think that the Senate, the government and, let us say the cabinet, should have different systems? After all, the Senate does not deal with such issues as procurement, the letting of contracts, the granting commissions and that sort of thing.

• (1020)

Does the honourable senator not agree that the system is supposed to be such that parliaments keep governments ethical rather than governments using closure to force ethical bills on Parliament? We have reversed the principles. I was struck by the fact that the honourable senator spoke very sincerely.

*[Translation]*

**Senator Chaput:** I do not, of course, have your depth of knowledge of the system and the proper terminology. As for your question, in my opinion, the response is provided by the very fact that we each have our ethics adviser. That is the only answer I can give you.

*[English]*

**Some Hon. Senators:** Hear, hear!

**The Hon. the Speaker:** Are there other speakers?

On motion of Senator Rompkey, debate adjourned.

## BUSINESS OF THE SENATE

**Hon. Bill Rompkey (Deputy Leader of the Government):** Your Honour, I think there might be agreement to stand all other items of Government Business and move on to non-government business. I want to make it clear that all I want to stand are the items under Government Business and move on to deal with the Order Paper items under Other Business.

**The Hon. the Speaker:** Is it agreed, honourable senators, that we move on to Other Business on the Order Paper?

**Hon. Senators:** Agreed.

## CRIMINAL CODE

### BILL TO AMEND—THIRD READING— DEBATE ADJOURNED

**Hon. Serge Joyal** moved third reading of Bill C-250, to amend the Criminal Code (hate propaganda).—(*Honourable Senator Joyal, P.C.*).



He said: Honourable senators, I will try to be brief at third reading because we had an extensive debate at second reading in the previous incarnation of this bill and now in this session. I should like to take the few minutes that are allocated to me to answer some of the criticisms that have been addressed with regard to this bill.

Honourable senators will remember that Bill C-250 deals with the Criminal Code hate propaganda provisions, which are sections 318 and 319. Those two sections target the most extreme hate-mongers, namely, people who seek to dehumanize all groups of people on the basis of a single characteristic like race, colour, ethnic origin or religion.

The first criticism addressed to this bill is that it is not useful; there are no cases implying discrimination based on hate, targeting people whose sexual orientation seems to offend other groups in the population.

The statistics that have been offered in support of those two provisions are astounding. Statistics Canada, in a report released in 1997 entitled "Hate Crime Statistics: Challenges and Opportunities," provides that more than 18.4 per cent of the hate crimes that happened in 1997 dealt with crimes alleging sexual orientation.

Last week, in a Calgary newspaper, Constable Doug Jones estimated that only 10 per cent of hate crimes against gays are reported. Honourable senators will easily understand why. Someone who is the subject of an assault and violence often prefers to go home and hide away than to go to a police station and report the details, to be submitted to questions, to file a complaint and to be involved in a trial. According to the witnesses that we heard at the committee, only 10 per cent, on average, are reported.

For instance, February 2004 statistics published by the Ottawa Police Services Department indicate that more than 13 cases involving sexual orientation have been reported to the police station in our own national capital.

I do not think, honourable senators, that there is any need for me to report to you horror stories. We all know them. We read the newspaper and listen to the news. We watch television and we know that those situations exist. We may not want to see them, but they exist.

Honourable senators, what are we talking about when we refer to "hatred"? What does "hatred" mean? Is it similar to the statement, "I hate broccoli" or "I hate turnips"? Is this the kind of hate we are talking about in the Criminal Code? The Criminal Code is at a much different level than those sentiments.

The Supreme Court of Canada has defined what we mean by "hatred" based on sexual orientation. In the *Keegstra* decision in 1990, Chief Justice Dickson defined hatred the following way:

Hatred is predicated on destruction, and hatred against identifiable groups therefore thrives on insensitivity, bigotry and destruction of both the target group and of the values of

our society. Hatred in this sense is a most extreme emotion that belies reason; an emotion that, if exercised against members of an identifiable group, implies that those individuals are to be despised, scorned, denied respect and made subject to ill-treatment on the basis of group affiliation.

Honourable senators, I repeat: "Despised, scorned, denied respect and made subject to ill-treatment." We are not just talking about sentiments where someone says, "I do not like that kind of people." We all have sentiments, beliefs and biases, unfortunately. We are all human beings. The concept of hatred that is enshrined in the Criminal Code is at a level that is much higher than the mere sentiment that we have in our daily life.

Another allegation has been made that this bill is the product of only a small group of people, a small group of activists, and that is not that important. It is a lobby that is active within our society and one that has succeeded, in some instances, to promote its status.

Honourable senators, the Canadian Bar Association, in a letter dated May 13, 2003 — less than a year ago — stated specifically that sections 718 and 318, if amended, of the Criminal Code would form a comprehensive response to what is, unfortunately, a widespread social problem. The Canadian Bar Association is not a lobby group that would benefit from protection in the Criminal Code.

• (1030)

This bill is requested by another group of people that we cannot target as being part of the lobby. The 10 provincial Attorneys General and the three territorial Ministers of Justice came to a consensus in November 2001, — asking the federal Minister of Justice to adopt legislation similar to Bill C-250. Here we are dealing with the representatives of the administration of justice from all of the provinces and territories across Canada. We are not talking about one single individual in the other place lobbying to change the system.

Furthermore, there is another group that supports Bill C-250. It is the Canadian Association of Chiefs of Police. At their annual meeting in Halifax in August 2003 — less than a year ago — they passed a unanimous resolution asking that the Criminal Code add sexual orientation to the list of identifiable groups in section 318. Honourable senators, I insist that those stands are taken by the chiefs of police, by the attorneys general of all provinces and territories and federal government and by the Canadian Bar Association requesting those changes because the problem is real.

The third argument raised in our discussion at the study level of the committee was that concept of the term "sexual orientation" is imprecise. What does "a group identifiable on the basis of sexual orientation" mean? Some witnesses alleged that this term does not exist in our Criminal Code; that it is a concept that is so vague that the prosecutors charged with implementing the code will not know what it means to be in an identifiable group.

Honourable senators, this is a very fast reading of the Criminal Code. In fact, the Criminal Code was already amended less than even years ago to include sexual orientation, but in a different section of the code entitled, "Purpose and Principles of Sentencing." When a judge must decide upon a sentence after someone has been found guilty of a crime, the judge must take into account whether the crime has been committed on the basis of hate, prejudice, bias, based on among other things, and I quote, "sexual orientation." Therefore, the concept already exists in the Code at the sentencing level of a crime.

Of course, honourable senators will remember that this issue of sexual orientation has been occupying the Parliament of Canada for the last 10 years in many instances. First, there was the decision of the Supreme Court of Canada in a case called *Egan* in 1995. It was a seminal decision whereby the court defined that sexual orientation is a prohibited ground of discrimination under section 15 of the Charter. The Supreme Court of Canada defined "sexual orientation" according to section 15 in its majority decision in the following way:

Sexual orientation is demonstrated in a person's choice of a life partner, whether heterosexual or homosexual. It follows that a lawful relationship which flows from sexual orientation should also be protected.

That decision of the Supreme Court of Canada led the Federal Court of Appeal, in the next year, 1996, to come forward with the following decision on the definition of sexual orientation:

Whether or not it is possible to say that the expression "sexual orientation," as used in [the present context] may, as a pure matter of language, refer to other than gays, lesbians and bisexuals, the expression has been clarified in many decisions of the courts and is now well established as to its particular meaning.

Honourable senators, I could pile on my desk cases and cases coming from each provincial human rights commission dealing with complaints based on sexual orientation discrimination. It has been recognized in all of the provincial charters and in the federal Charter of Rights. We are not breaking ground here in terms of the definition of the concept of sexual orientation. That allegation at this concept is undefined does not stand the test of the case law that is available.

The fourth argument put forward in our debate is that we could endanger freedom of religion. Those religions that do not accept — in fact, that condemn — some sexual orientations will not be free to continue to promote their beliefs. This is a veryorny issue: the delineation of freedom of religion and Charter rights. That ground is probably one of the most challenging for a court to bring forward. Everyone of us is free to hold the religious beliefs that he or she wants to hold. Of that there is no question, absolutely. The problem comes when those beliefs contradict early the values enshrined in the Charter. Let me give you an example, honourable senators.

There are many passages of scripture, of the New Testament, for instance, that deal with the status of women. Let me quote 1 Timothy 2:11-15, which states:

A woman should learn in quietness and full submission. I do not permit a woman to teach or to have authority over a man; she must be silent...

Let me read another one. 1 Corinthians 11:7-9 states:

For a man...is the image and glory of God; but woman is the glory of man. For man did not come from woman, but woman from man; neither was man created for woman but woman for man. For this reason, and because of the angels, the woman ought to have a sign of authority on her head.

Honourable senators, if you want to hold those beliefs, you are absolutely free to hold them. I do not question that. However, if you are telling me that any religious beliefs must trump the equality section, section 28 of the Charter, that provides absolute equality between men and women, then there is a clash.

Who has the responsibility in our society to delineate where religious beliefs do or do not trump the Charter values? I refer honourable senators to a very important lecture given by Chief Justice McLachlin at McGill University at the René Cassin Lecture in 2002. It is a 12-page lecture. I invite any one of you who want to reflect about religious freedoms and Charter issues to read that text.

She said the following:

Conscientiously held religious beliefs and the resulting religious practices can come into conflict with values reflected in the law as a whole.

That is the very point I have illustrated.

Equally, the synthesis of the rule of law with seemingly contradictory religious belief systems has always been a matter for the courts... It is the courts that are most often faced with this clash and charged with managing this dialectic.

• (1040)

Honourable senators, we are faced with a situation that exists — that is, violence against an identifiable group. We are faced with a request from those responsible for peace and order in our society to act. We are faced, too, with supporting what we think is right. Beyond all the legislative texts, beyond all the statutes, there is something that has to be right in society. In individual who has dignity, who has an identity, has a fundamental right not to be subjected to violence because of his or her characteristics. That is what we are talking about with this bill, honourable senators.

I feel that this bill is totally Charter-proof. If there were any allegation of questions in relation to religious beliefs, the court has enough precedents at hand to make a wise decision.



I urge honourable senators to support this bill. It is needed, it is requested, and it is time that the Statutes of Canada reflect the freedom and the dignity that each and every Canadian is entitled to.

**Hon. Senators:** Hear, hear!

**Hon. Anne C. Cools:** Would the honourable senator take a question?

**Senator Joyal:** Yes.

**Senator Cools:** I thank Senator Joyal for his remarks. I have two questions for the honourable senator.

Some months ago, I pointed out to the honourable senator that in a previous speech in September, he said that former Supreme Court Justice Peter Cory served on the Maxwell Cohen committee. Senator Joyal told me that he intended to make a correction. He may wish to make that correction, because Peter Cory did not serve on the Cohen committee; it was Dr. James Corry, who was a Principal of Queen's University.

The honourable senator has said something very profound. He has said that we should do that which is right — I think the expression was that we should do "what we think is right."

Senator Joyal has laid out quite clearly to the chamber the perceptions and the expressions of those who support the bill, but, in my view, those who oppose the bill are in far greater numbers than those who support it.

I want to come to the question of what people think is right and ask the honourable senator about all of these Canadians, millions of them, who are concerned that they will be exposed to malicious or menacing prosecutions. They are in three groups. One group would be those who express moral opinions about human sexuality. There are vast armies out there who are concerned.

The second group is professionals, including physicians and teachers, who are concerned that they may face prosecution if they raise —

**Some Hon. Senators:** Question!

**Senator Cools:** I am asking a question.

**The Hon. the Speaker:** Senator Cools.

**Senator Cools:** I am identifying groups of people and asking Senator Joyal for his response to them.

Professional people and physicians are caught in the situation of expressing medical opinions about certain forms of human sexuality, especially dangerous sexual forms. Right now, in the United States of America, a fierce battle is taking place between two groups of psychiatrists. The third group is parents who want to teach their children about avoiding or being cautious about dangerous human sexuality.

[ Senator Joyal ]

As Senator Joyal knows, some of these people, not many, but a few, appeared before the committee. The honourable senator has answered the concerns of those who support this bill — and I understand that because the honourable senator's position is that he is supporting it, so of course he presents that view. I have no quarrel with that. I wonder, however, if the honourable senator could respond to these other concerns.

I know I am asking Senator Joyal to hold a lot in his head — but he is bright so I know he you can do it.

Senator Joyal began by saying that all the Attorneys General of the provinces, as well as the federal Attorney General, support the bill. My question is this: If there is so much support among the Attorneys General, why was this bill not brought as a government bill, where it would have had the force of government behind it and would have been brought to us under the notion of ministerial responsibility?

**Senator Joyal:** I thank the honourable senator for his questions.

I have not touched upon the possibility that the honourable senator has described, that there may be futile accusations and that somebody would be subject to prosecution. That fear that the honourable senator expressed is very well answered in sections 318 and 319 of the Criminal Code, and I will tell the honourable senator why. Section 318 provides that if there is an allegation that the group targeted for genocide, or discrimination is convinced that that is the reality, then there is a major procedural obstacle to face. I will read section 318(3):

No proceeding for an offence under this section shall be instituted without the consent of the Attorney General.

In other words, if somebody makes a futile allegation, it does not go immediately into the system. An individual cannot simply file the paper and be brought into court. That is not exactly how it happens. The complaint has to be received and assented to by the Attorney General, so there is a restraining mechanism in the system.

If we read section 319, we find two sets of legal obstacles to launching a complaint. Section 319 refers to incitement that is "likely to lead to a breach of the peace." Section 319(2) reads as follows:

Every one who, by communicating statements, other than in private conversation, wilfully promotes hatred against any identifiable group —

— that would "likely lead to a breach of the peace," as provided in 319.

The question is this: What is a breach of the peace? A breach of the peace, honourable senators, has been defined — I am quoting from the decision in *R. v. Howell*, in the English Court of Appeal, 1981. Breach of the peace has been defined as follows:

...where harm is actually or likely to be done to a person, or in his presence to his property, or a person is in fear of being so harmed through an assault, affray, riot, unlawful assembly or other disturbance. The event should be serious enough to necessitate police intervention to keep it from escalating to an assault, mischief or disturbance.

That is a pretty high test. A breach of the peace is a criminal concept that has been interpreted by the courts, and the threshold before the police come to the conclusion that there is a breach of the peace is fairly serious.

(9:50)

There is another level of qualification for 318(3) that involves, again, the consent of the Attorney General. In other words, there are mechanisms so that no one who is just ill-intentioned can go to the police station and make a complaint, and the next day someone finds himself or herself in court. A well-established mechanism is found in sections 318 and 319 that, in my humble opinion, prevents futile allegations.

On the last point of the Honourable Senator Cools as to why the government has not come forward with this bill, as I stated, in November 2001 the Attorneys General of the provincial and territorial governments met and asked the federal government to proceed with similar legislation. It is clearly stated, and I see the honourable senator nodding her head in assent.

The question is why the Minister of Justice not proceeded with this. The Department of Justice, as far as I am aware, is presently reviewing some sections of the Criminal Code that need to be updated. Sections 318 and 319 are part of that overall review of the code. I know the honourable senator has personally expressed interest in that review process, the structure of the code, and so on. It is under that review process that the government intends to come forward with an overhaul of the code and those sections are part of that study. Since Bill C-250 meets one of the requirements of that overhaul, the government is supportive of the bill.

**Hon. Lowell Murray:** For the record, does the honourable senator know how many prosecutions have been launched and resulted in a conviction after receiving the Attorney General's fiat since the law came into force 34 years ago?

**Senator Joyal:** I thank the Honourable Senator Murray for his question. In fact, it is very few. It was mentioned at our hearings. It is in the area of between four and six. Those are not provisions of the code that are lightly used. They have more of a preventive nature, as Senator Carstairs said in her speech on second reading. They have a dissuasive effect and are seen as being the limits that we should have in our civilized society with respect to differences. They are, as I say, very few in number on the basis of the argument I have just mentioned. There are conditions before one launches those accusations.

I believe that only one or two have been successful. It is a very small number. We are not talking about flooding the courts tomorrow or Monday morning with a tremendous number of accusations, thereby jamming the courts. That is not at all the reality.

**Hon. Joan Fraser:** I would like to pursue a line Senator Cools evoked in one of her series of questions. As honourable senators know, I support this bill. I was listening carefully, and I think I heard her say that some critics of this bill had suggested that the bill would make it harder for medical experts, teachers or parents to educate children about dangerous behaviour.

I am persuaded that this bill has nothing to do with sexual behaviour and that high-risk sexual behaviour is not confined to any one sexual orientation at all. Violence is violence and should be avoided. High-risk behaviour is high-risk behaviour and should be avoided, sexual or otherwise. However, this bill is not about behaviour; it is about orientation. That is what I think. However, I would like the honourable senator to clarify for me if my impression is correct.

**Senator Joyal:** The Honourable Senator Fraser expressed the bill in terms of its practicalities. No one will be barred from teaching about the risks of some sexual behaviour. The education system tried to raise the consciousness of youth about the risk of some sexual behaviour. That has nothing to do with sections 318 or 319, the hatred provisions, which are essentially to incite people to be violent toward other individuals on the basis of their sexual orientation. It has nothing to do with that. It does not prevent any of the research that the medical profession does in relation to sexual activities. That has nothing to do with this bill. This bill is essentially to prevent violence against individuals. That is the aim of this bill. All the rest stays as it is, with the expectation that there will be better education, awareness and consensus amongst society.

On motion of Senator Beaudoin, debate adjourned.

## BANKING, TRADE AND COMMERCE

### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—REPORT OF COMMITTEE ON STUDY OF CHARITABLE GIVING ADOPTED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Banking, Trade and Commerce (budget—study on charitable giving) presented in the Senate on March 11, 2004.—(Honourable Senator Kroft).

**Hon. Richard H. Kroft** moved the adoption of the report.

He said: I do not feel any need to speak. If there are any questions, I would be pleased to answer them.



**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

#### SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

##### COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

**Hon. Yves Morin,** for Senator LeBreton, pursuant to notice of March 23, 2004, moved:

That the Standing Senate Committee on Social Affairs, Science and Technology have power to sit at 3 p.m. on Thursday, April 1, 2004, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Motion agreed to.

• (1100)

#### NATIONAL SECURITY AND DEFENCE

##### COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

**Hon. Joseph A. Day,** pursuant to notice of March 24, 2004, moved:

That the Standing Senate Committee on National Security and Defence have power to sit at 5 p.m. on Monday next, March 29, 2004, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Motion agreed to.

#### ABORIGINAL PEOPLES

##### COMMITTEE AUTHORIZED TO STUDY 2004-05 BUDGETED EXPENDITURES FOR COMMUNAL PROGRAMS AND SERVICES DELIVERED BY DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

**Hon. Nick G. Sibbeston,** pursuant to notice of March 24, 2004, moved:

That the Standing Senate Committee on Aboriginal Peoples be authorized to examine and report upon planned federal expenditures, as set out in the 2004-05 Main Estimates and the March 2004 federal budget, in relation to programs and services delivered to First Nation communities by the Department of Indian Affairs and Northern Development; and

That the Committee table its final report no later than June 30, 2004.

Motion agreed to.

#### ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Monday, March 29, 2004, at 8 p.m.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned until Monday, March 29, 2004, at 8 p.m.

**THE SENATE OF CANADA**  
**PROGRESS OF LEGISLATION**  
**(3rd Session, 37th Parliament)**  
**Friday, March 26, 2004**

**GOVERNMENT BILLS**  
**(SENATE)**

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
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**GOVERNMENT BILLS**  
**(HOUSE OF COMMONS)**

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-4	An Act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence	04/02/11	04/02/26	Rules, Procedures and the Rights of Parliament	04/03/23	0			
C-5	An Act respecting the effective date of the representation order of 2003	04/02/11	04/02/20	Legal and Constitutional Affairs	04/02/26	0	04/03/10	04/03/11	1/04
C-6	An Act respecting assisted human reproduction and related research	04/02/11	04/02/13	Social Affairs, Science and Technology	04/03/09	0	04/03/11		
C-7	An Act to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety	04/02/11	04/03/11	Transport and Communications					
C-8	An Act to establish the Library and Archives of Canada, to amend the Copyright Act and to amend certain Acts in consequence	04/02/11	04/02/18	Social Affairs, Science and Technology	04/03/11	3			
C-13	An Act to amend the Criminal Code (capital markets fraud and evidence-gathering)	04/02/12	04/02/24	Banking, Trade and Commerce	04/03/11	0	04/03/22		
C-14	An Act to amend the Criminal Code and other Acts	04/02/12	04/02/25	Legal and Constitutional Affairs					
C-16	An Act respecting the registration of information relating to sex offenders, to amend the Criminal Code and to make consequential amendments to other Acts	04/02/12	04/02/19	Legal and Constitutional Affairs	04/03/25	0			
C-17	An Act to amend certain Acts	04/02/12	04/03/09	Legal and Constitutional Affairs					
C-18	An Act respecting equalization and authorizing the Minister of Finance to make certain payments related to health	04/03/10	04/03/22	National Finance	04/03/23	0	04/03/25		
C-20	An Act to change the names of certain electoral districts	04/02/23	04/03/09	Legal and Constitutional Affairs					
C-21	An Act to amend the Customs Tariff	04/03/24							



No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-22	An Act to amend the Criminal Code (cruelty to animals)	04/03/09							
C-24	An Act to amend the Parliament of Canada Act	04/03/22							
C-26	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004	04/03/22	04/03/25	—	—	—	04/03/26		
C-27	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005	04/03/22	04/03/25	National Finance					

## COMMONS PUBLIC BILLS

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-212	An Act respecting user fees	04/02/03	04/02/11	National Finance	04/02/26	10	04/03/11		
C-249	An Act to amend the Competition Act	04/02/03							
C-250	An Act to amend the Criminal Code (hate propaganda)	04/02/03	04/02/20	Legal and Constitutional Affairs	04/03/25	0			
C-260	An Act to amend the Hazardous Products Act (fire-safe cigarettes)	04/02/03	04/02/23	Energy, the Environment and Natural Resources	04/03/10	0			
C-300	An Act to change the names of certain electoral districts	04/02/03							

## SENATE PUBLIC BILLS

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-2	An Act to prevent unsolicited messages on the Internet (Sen. Oliver)	04/02/03	04/03/23	Transport and Communications					
S-3	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver)	04/02/03		subject-matter 04/03/11 Legal and Constitutional Affairs					
S-4	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	04/02/03	04/02/26	Official Languages	04/03/09	0	04/03/11		
S-5	An Act to protect heritage lighthouses (Sen. Forrester)	04/02/03	04/02/05	—	—	—	04/02/05		
S-6	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	04/02/04	04/02/11	Legal and Constitutional Affairs					
S-7	An Act respecting the effective date of the representation order of 2003 (Sen. Kinsella)	04/02/04	Bill withdrawn pursuant to Speaker's Ruling 04/03/23						
S-8	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	04/02/05	04/02/12	Energy, the Environment and Natural Resources	04/03/10	0	04/03/11		

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-9	An Act to honour Louis Riel and the Métis People (Sen. Chalfoux)	04/02/05							
S-10	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	04/02/10							
S-11	An Act to repeal legislation that has not been brought into force within ten years of receiving royal assent (Sen. Banks)	04/02/11	04/03/09	Legal and Constitutional Affairs					
S-12	An Act to amend the Royal Canadian Mounted Police Act (modernization of employment and labour relations) (Sen. Nolin)	04/02/12							
S-13	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	04/02/19							
S-14	An Act to amend the Agreement on Internal Trade Implementation Act (Sen. Kelleher, P.C.)	04/03/10		subject-matter 04/03/22 Banking, Trade and Commerce					
S-16	An Act to amend the Copyright Act (Sen. Day)	04/03/11	04/03/23	Social Affairs, Science and Technology					
S-17	An Act to amend the Citizenship Act (Sen. Kinsella)	04/03/25							
PRIVATE BILLS									
No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-15	An Act to amend the Act of incorporation of Queen's Theological College (Sen. Murray, P.C.)	04/03/10	04/03/11	Legal and Constitutional Affairs	04/03/25	0	04/03/25		



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CANADA

# Debates of the Senate

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3rd SESSION • 37th PARLIAMENT • VOLUME 141 • NUMBER 26

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OFFICIAL REPORT  
(HANSARD)

**Monday, March 29, 2004**

—

THE HONOURABLE DAN HAYS  
SPEAKER





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(Daily index of proceedings appears at back of this issue).

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## THE SENATE

Monday, March 29, 2004

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

[Translation]

### ROYAL ASSENT

The Hon. the Speaker informed the Senate that the following communication had been received:

#### RIDEAU HALL

March 26, 2004

Mr. Speaker,

I have the honour to inform you that the Right Honourable Adrienne Clarkson, Governor General of Canada, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 26th day of March, 2004 at 11:01 a.m.

Yours sincerely,

Barbara Uteck  
Secretary to the Governor General

The Honourable  
The Speaker of the Senate  
Ottawa

Bills Assented to Friday, March 26, 2004:

An Act respecting assisted human reproduction and related research (*Bill C-6, Chapter 2, 2004*)

An Act to amend the Criminal Code (capital markets fraud and evidence-gathering) (*Bill C-13, Chapter 3, 2004*)

An Act respecting equalization and authorizing the Minister of Finance to make certain payments related to health (*Bill C-18, Chapter 4, 2004*)

[English]

## SENATORS' STATEMENTS

### TRIBUTES

THE HONOURABLE GÉRALD-A. BEAUDOIN

The Hon. the Speaker: Honourable senators, I have received a letter from the Leader of the Opposition in the Senate, the Honourable Senator Lynch-Staunton, pursuant to rule 22(10),

requesting that the time provided for consideration of Senators' Statements be extended today for the purpose of paying tribute to the Honourable Senator Beaudoin, who will be retiring April 15, 2004.

[Translation]

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, Senator Beaudoin is one of the four Quebecers who were appointed to the Senate in the spirit of the Meech Lake Accord, in other words, in consultation with the premier of their province. The success of this formula is evident when we look at the names of our colleagues who took office at the same time he did: Senators Bolduc, Chaput-Rolland and Poitras. We were sorry to say goodbye to each member of this veritable pantheon, and we will be just as sorry to say goodbye to our friend Gérald.

His departure will leave a void that will be most difficult to fill. He will be missed for his knowledge of the law, especially constitutional law, and also for the way he shared that knowledge with his colleagues, regardless of their political affiliation. He was an experienced professor and I often had the impression both in this House and in committee that he was addressing students who were unruly at first, but whose attention was soon captured by his clarity of thought and his ability to explain the most complicated rulings.

Very few senators have brought such a wealth of experience to the Senate. Lawyer, counsel for the Department of Justice and the House of Commons, law professor, dean, and author, he quickly became co-chair of two special committees on the Constitution and was very active on numerous Senate committees.

[English]

As a caucus member, Senator Beaudoin was not at first always at ease as he found it difficult to understand why a bill that in his mind deserved support had, as an opposition member, to be opposed. Being an academic, he professed being above the fray, but he always — nearly always — abided by caucus consensus.

When Senator Beaudoin became animated, his favourite expressions were "in my opinion," and "on the one hand and on the other hand." I can say that in everyone's opinion, and on both hands, Senator Beaudoin's remarkable intellect, profound knowledge of the law and an ability to explain the most complex of legalities in the most clear fashion will be sorely missed, as will his engaging personality and strong attachment to the parliamentary system that has benefitted all those who have had the privilege to sit with him.

[Translation]

Many thanks, Gérald, for your exceptional contribution to the parliamentary process. Best wishes to you and your charming wife Renée on the eve of a well-deserved retirement. You will be sorely missed.



[English]

**Hon. Jack Austin (Leader of the Government):** Honourable senators, when I first saw Senator Beaudoin's name in writing, it had so many letters after it that I thought the computer had gone awry and had printed the entire alphabet. By which, of course, I mean that he has received so many honours, distinctions, honorary degrees and other awards that there are more letters after his name than there are in his name.

Today I should like to express my admiration for the accomplishments of Senator Gérard Beaudoin, a man whose prodigious career in law and politics is difficult to distil in a few words. He is an Officer of the Order of Canada, a fellow of the Royal Society of Canada and professor and dean of civil law. Senator Beaudoin is also a prolific writer on constitutional matters and on our Canadian Charter of Rights and Freedoms. His books serve as seminal references in our law libraries, and two of his texts are currently in their third edition. The latest edition of *La Constitution du Canada* was launched with great celebration in our Senate foyer earlier tonight.

• (2010)

He has received numerous honours, both national and international, in recognition of his expertise in law and its implications for how we govern ourselves. Among the most notable are the Ramon John Hnatyshyn Award for Law, 1997, and the Walter S. Tarnopolsky Human Rights Award, two years ago, both of which recognize his contribution to the advancement of law.

[Translation]

Since his appointment to the Senate he has been an active participant on committees and has co-written a number of reports. The report of the Special Joint Committee on a Renewed Canada was an exceptional achievement, due in no small measure to Senator Beaudoin's leadership, even though he became co-chair only two months before the deadline.

The report covered Native issues, Senate reform, intergovernmental relations and many other subjects that we continue to discuss in our parliamentary debates. His impact became obvious when a number of his sections found their way into the Charlottetown Accord.

Senator Beaudoin's reputation as an expert in constitutional law has had an impact on my current office, since my assistant, Ms. Deborah Palumbo, contributed to one of the texts in the anthology, *The Challenges of Constitutionalism: Essays in Honour of Gérard-A. Beaudoin*, published two years ago.

In the foreword to this book, Pierre Thibault, a long-time assistant to the Senator, describes constitutionalism as "the blossoming of a culture of rights and freedoms."

I will quote Mr. Thibault's words, because it is pure Beaudoin:

Belief in the primacy of a constitution as an essential tool for defining, protecting and preserving the rights of Canadians within their young democracy.

Teachings like that are the legacy Senator Beaudoin will be leaving for our judicial system, our Parliament, the Senate and Canadians of the future.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I rise this evening to pay tribute to our friend and colleague, the Honourable Senator Gérard Beaudoin, and to speak of the importance of the law itself for society, because he has made an invaluable contribution to Canadian and international law.

Honourable senators, it was Saint Thomas Aquinas who defined the law in his *Summum Theologica*, in item 4, question 90, of the *Prima Secunda*: "a dictate of practical reason, ordered toward the common good, made by one who has care for the community, and promulgated."

[English]

These essential elements of law are equally descriptive of Gérard Beaudoin, a jurist "par excellence." Reason, the rule of law and the common good are always characteristic of his analysis of legal questions. In many ways, Senator Beaudoin's explanations of different sides of an issue expressed, as my colleague Senator Lynch-Staunton has pointed out, "on the one hand" and then "on the other hand" resembled the approach of St. Thomas, who would use the question-and-answer technique in laying open an issue.

Honourable senators, our colleague has been a beacon for this chamber as we navigated the shoals of constitutional matters. It was always comforting when he would be able to conclude with precision and univocal judgment that a Charter determination on an issue was "clear-cut."

[Translation]

This chamber and our country have been well served by this man of law, this teacher, this dean of law and this distinguished senator. We will all remember his exceptional contribution and, particularly, his unique teaching: laws must be useful to the common good and any law that is *a fortiori* useless or harmful to the community is not a real law.

Like Thomas Jefferson, Gérard Beaudoin recognizes that we have a right to freedom and, like Jefferson in his times, Senator Beaudoin has, in our times, had a great influence when it comes to the protection and promotion of our freedom.

**Hon. Jean-Robert Gauthier:** Honourable senators, I cannot claim to do justice to the impressive career of our colleague and friend, Senator Gérard Beaudoin.

Mr. Beaudoin is a prominent expert in legal and constitutional affairs. He is known across Canada and he is one of the most respected jurists in this country. Gérard has always vigorously defended the equal status of Canada's two official languages.

I have known the professor, the dean, the author and the counsel. In short, he is a Canadian who is accessible, respectful of cultural freedom and, above all, a champion of our linguistic duality.

In the sixties and seventies, I was very involved in education in the Ottawa region as a school board trustee. I was looking for support to help us explain to the majority that official language minority communities should manage their own French-language schools, in Ontario and elsewhere. In 1966, a study done by OISE (the Ontario Institute for Studies in Education) showed that 10 per cent of French Canadians living in Ontario dropped out of school before completing grade 10.

I had the pleasure of meeting Senator Beaudoin at the University of Ottawa. I believe he was the dean of the faculty of law and he had just published a book. He encouraged me and gave me good advice. He said: "Above all, do not give up."

Senator Beaudoin has always supported initiatives to improve the lot of linguistic and cultural minorities. While he could be critical at times, he always knew how to find the necessary compromise to make peace and advance issues.

I am pleased to have this opportunity today to speak of my friend Gérard Beaudoin. He will soon be facing a new challenge, a well-deserved retirement that will likely be as busy as it is deserved. I will be following him in six months' time, but Gérard will not stop writing and I will not stop talking.

Have a great retirement, my dear Gérard!

**Hon. Lowell Murray:** Honourable senators, long before meeting Professor Gérard Beaudoin personally, I was well aware of his brilliant reputation as an intellectual, a constitutionalist and an author. Having assumed certain responsibilities in the area of federal-provincial relations, I was anxious to meet him, and if possible to draw upon his vast knowledge on the subject. On January 27, 1987, he accepted my invitation to lunch with me in the Parliamentary restaurant and there began a dialogue and teacher-student relationship that has lasted to this day and will, I hope, continue.

(2020)

On January 27, a week after that conversation, Professor Beaudoin sent me a letter in order, as he put it, to put down on paper:

[...] a few proposals relating to the hypotheses we discussed last Tuesday.

He then went on to address, with his customary rigour and clarity, six proposals aimed at the abolition of our Senate, or at least its radical reform. These subversive ruminations came to an abrupt end with Professor Beaudoin's appointment to that Senate twenty months later.

[English]

As Lyndon Johnson and Brian Mulroney are supposed to have said, "Better to have him inside the tent looking out than outside the tent looking in."

[translation]

Nevertheless, I am absolutely certain today that Senator Beaudoin is as embarrassed at having made such proposals as I am of having solicited them. When he was appointed to the

Senate, Professor Beaudoin, having never had any party affiliations, spoke of his concern, hesitation even, about the invitation he had received to join the Progressive Conservative caucus. He was even contemplating sitting as an independent.

Fortunately, I managed to persuade him to come on side with the Progressive Conservatives. And to ensure that it was a profitable experience, we had to reverse the teacher-student relationship that had characterized our constitutional discussions.

What an extraordinary and motivated student he became. I particularly remember the great frustration in the Liberal government when Senator Beaudoin managed, on two occasions, to derail its attempts to manipulate the electoral map. Today, if he is not seen as a partisan, he is universally recognized as a convinced and convincing activist.

Senator Beaudoin's retirement means that the Senate is losing one of its illustrious parliamentarians. I sincerely thank him for his contribution to Parliament and to Canada over the past 17 years.

**Hon. Viola Léger:** Honourable senators, during my brief time here in the Senate, I have had the opportunity to meet some extraordinary people, one of whom is without a doubt Senator Beaudoin. He is a formidable constitutional expert, an artist skilled in the Constitution, which puts him above all the parties and above all frivolous and futile discussions. His message is always legally sound.

Senator Beaudoin, I thank you for teaching me so clearly and simply that both the official languages of Canada are equal. Your presence and, often, your company at various artistic activities, be it theatre, music or the arts in general, has brought me great joy. One is never alone in your company. As a parting gift, I want to offer you a poem by Gilles Vigneault, *Prenez soin des mots, Madame*.

Beware the spoken WORD —  
a breeze and it is gone  
with a promise to return.  
Beware the word SILENCE  
from which spring words of  
memory in turn.

Beware the word MEMORY —  
in the dead of night it might  
a secret become again...  
and in trying so to hide it  
we would lose the word MYSTERY,  
blind to our loss.

Between sand and stone  
trout await their river,  
the river, its stream...  
but the LAKE... what of it?  
And the clouds and the rain?  
Drink we dare not...



Between BEING and DESIRE  
MAN, usurping the word SIRE,  
keeps the WOMAN nameless...  
but time knows success  
and now my mistress  
says NO... and YES.

A tree become BOOK  
One LEAF brings to life  
a season of birds...  
the soul still eludes  
and crumbles away  
at the very first blows.

Beware the INVISIBLE  
And again become the target,  
the bow... the arrow and the hunter,  
the silence and the river  
and the points of light  
that glow in the darkness ...

**Hon. Senators:** Hear, hear!

[English]

**The Hon. the Speaker:** Honourable senators, I regret to advise that the extended time for tributes has expired. I still have on my list Senator Beaudoin, Senators Keon, Jaffer, Joyal, Bacon, LaPierre and St. Germain. I will continue under Senators' Statements with those names.

Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

**Hon. Wilbert J. Keon:** Honourable senators, it is a wonderful honour and pleasure to join you in paying tribute to a truly great Canadian, Honourable Senator Gérard-A. Beaudoin, who has made the well-being of Canada his business.

In 1997, the President of the Canadian Bar Association, Russell Lusk, during the presentation of the Ramon John Hnatyshyn Award for Law, recognizing outstanding contributions to the law or legal scholarship in Canada, said that Senator Beaudoin's contribution to the practice and understanding of law was truly exceptional. He has consolidated the relationship between practitioners, academics, francophones and anglophones. He is a true example for the profession.

I have known Senator Beaudoin for some 35 years. We were both professors at the University of Ottawa in our respective disciplines. He went on to become Dean of the Faculty of Law. We both served on the board of governors at the same time. Senator Beaudoin was a great promoter of the University of Ottawa. His contributions in that realm have elevated the university to what I believe is the only true bilingual university

in our country. In addition to being a lawyer, a law professor, dean and senator, he is a prolific author, having published more than 100 articles, dozens of books and a number of elaborate volumes on constitutional issues.

When I came to the Senate in 1990, I was very relieved to see my old friend by my side. I found myself at that time sitting on the Standing Senate Committee on Legal and Constitutional Affairs, sadly lacking in expertise. I treasured the support and counsel of Senator Beaudoin and went to him very often.

Today, I find myself again in the presence of members of the Standing Senate Committee on Official Languages.

[Translation]

During our debates, his remarks are always judicious and to the point.

[English]

He is always able to bring clarity, with ease, to the constitutional perspectives of our discussion.

Senator Beaudoin, in the name of all Canadians, I thank you for your fervour and commitment. You are, indeed, an institution within an institution. It has been a great privilege to work with you here and elsewhere. I will miss you. We will all miss you.

• (2030)

**Hon. Mobina S. B. Jaffer:** Honourable senators, I, too, rise to pay tribute to Senator Beaudoin.

Senator Beaudoin, I have served with you on many committees — Bill C-36, the Human Rights Committee and the Legal and Constitutional Affairs Committee. I learned so much. Thank you.

You had a passion for laying the foundation by seeing that everything was constitutionally sound. Yes, often your questions were predictable, but it certainly helped us all to focus on the Constitution and the Charter.

You will be difficult to replace on our committees. Your work will be missed, but most of all your presence in the committees will be missed.

We will miss you greatly. Thank you.

[Translation]

**Hon. Serge Joyal:** Honourable senators, it with much gratitude that I rise to mark the retirement of Senator Beaudoin, a personal friend since 1969, when he tried to recruit me in London to teach administrative law at his university's law school.

Senator Beaudoin is a man of integrity, dignity and complete devotion to his work as a lawmaker and parliamentarian. Present in all debates of a legal nature, he has generously shared the sources of his experience in law and the enthusiasm of his conviction that the Canadian Charter of Rights and Freedoms has become the pivot point, even the centre of gravity, of the country's Constitution. Through his considerable writings and his many public interventions, he has contributed to making the Charter known and appreciated as a key feature of the Canadian identity. In every Senate debate or meeting of the Standing Committee on Legal and Constitutional Affairs, he has demonstrated his prodigious mastery of case law and I might say his phenomenal memory of the 430 or so cases that have invoked the Charter since it was adopted 22 years ago.

Senator Beaudoin was right to foresee the fundamental changes that have occurred in public debate since the Charter. Relations between the executive powers and the houses of Parliament, and between Parliament and the courts have all been redefined. In the Charter, Canadians have seen a bulwark against the arbitrary and the tyranny of the majority.

Finally, official language minority groups have seen in it the effective guarantee of their rights and the confidence of being able to continue to exist in the future, with their own characteristics.

In your always clear and correct language, Senator Beaudoin, you have exemplified probity and have proved, beyond any doubt, that the Senate can make a difference. Would you continue to contribute the immense resources of your experience to our modest efforts so that the Canadian parliamentary system can continue to grow at home and abroad?

**Hon. Lise Bacon:** Honourable senators, I would like to speak today on the remarkable contribution made by our colleague Senator Beaudoin, to the work of the Senate. Appointed to this chamber in 1988, he has given us the benefit of his erudition with respect to constitutional rights, his passion for parliamentary debate and his lively interest in the work of committees. Most of us know the parliamentarian Gerald Beaudoin, but he has also been a lawyer, a law professor, a dean and a prolific author.

During his 20 years as a professor, he helped to train a generation of legal experts. He was also Dean of Civil Law for 10 years from 1969 to 1979.

His contribution to the teaching of law has been quite remarkable, especially for those who attended the University of Ottawa.

He published many reference works for students and law practitioners. Texts such as *Le partage des pouvoirs*, *Canadian Charter of Rights and Freedoms*, and *La Constitution du Canada*, a new edition of which has just been released, are all examples of

the quality of his work. His acute sense of analysis and his encyclopaedic knowledge of the law make Senator Beaudoin a key reference when it comes to the Canadian Constitution.

Throughout his years in the Senate, Senator Beaudoin was very active on many fronts, especially on committees filling roles such as co-chair of the joint committee on the amending formula, co-chair of the committee on a renewed Canada, not to mention Chair of the Standing Committee on Legal and Constitutional Affairs for nearly three years.

I must acknowledge Senator Beaudoin's particular contribution over the past few years to the activities of the Canada-France Interparliamentary Association, of which he was vice-president.

His constant interest in and enthusiasm for the association certainly deserves to be mentioned.

Senator Beaudoin dedicated his life and entire career to the study of Canadian constitutional law, and I am sure he will remain a keen analyst of this subject for a long time. Perhaps he will find even more time to write and share with us his considerable knowledge.

**Hon. Gerry St. Germain:** My neighbour, why are you leaving? You are too young to go. Still, I would like to say a few words. For a professor from the East who sat next to a cowboy from the West, you did a good job.

Senator Beaudoin, we worked together on many issues. You worked tirelessly for the Métis and the Aboriginals. For that I thank you very much.

[English]

My friends, I have worked with Senator Beaudoin on a litany of files. As Senator Lynch-Staunton said, I used to ask him questions. I would say, "Look, I am a contractor, a commercial pilot, a former air force pilot; I do not understand all this constitutional stuff. What is your version of this, Senator Beaudoin?" He would say, "Well, it could be constitutional or maybe it is not constitutional." I would say, "Which one is it?" He would say, "It could be and it could not be." I would leave, shaking my head, but finally he would come to me and say, "St. Germain, I would like to tell you the way it is." He always had a response.

We worked together on Bill C-68, a bill nearly as controversial as Bill C-250 that is before us now. It was an interesting process to work with Senator Beaudoin because he was torn on this issue. It was an area on which he had never worked before. He knew it was a constitutional question. In the final analysis, he voted with the other side. Having said that, I have to give him a lot of credit because since then he has come back to me and said, "St. Germain, if I had to do that all over again, I might do something different."



The greatest tribute I can pay to Gérald is to repeat a story from a recent caucus meeting. I cannot divulge what happened in the caucus — as much as honourable senators would like to know — but I can say this. The members of the Canadian Alliance from Western Canada who are now part of the Conservative Party said that the retirement of Senator Beaudoin is most sorrowful. They were so impressed by the presentations he made at caucus that they wish he could stay.

Gérald, you always brought your intellect to the debate, but you always had your practical side. Good luck, best wishes and enjoy your retirement.

**Hon. Sharon Carstairs:** Honourable senators, what we have not mentioned tonight is the twinkle in the eye. I think we have missed talking about the fun times with Senator Beaudoin because there is indeed a fun side to Senator Beaudoin.

I will never forget going up in a gondola, in the middle of China, arriving at the top with Senator Beaudoin, Senator Murray and Senator Molgat. As we arrived we could hear singing, but we could not see the singers. We kept hearing the music. Senator Beaudoin was the one who discovered them, up in the trees, singing down at us. That was a wonderful example of the sparkle that comes into his eye when a good thing happens.

He had a little trouble with some of the food in China, as I recall. Senator Beaudoin loves his food, but there were many items on those menus that none of us could identify.

Senator Keon will remember another time when we were studying the issue of assisted suicide. Senator Beaudoin was having a lot of trouble with the idea that someone who is nearing the end of his or her life would not be fed, — that no artificial hydration or nutrition would be administered. He was concerned that the dying person would be hungry. I remember both Senator Keon and I agreeing that, when Senator Beaudoin's time came, he would not be hungry.

• (2040)

Honourable senators, I remember so much about Senator Beaudoin. He was the chair of the Standing Senate Committee on Legal and Constitutional Affairs when I first came here, and we were working on Bill C-68, which Senator St. Germain recalls. That was a tough one, because Senator Beaudoin, in chairing the committee, in that fair and honourable and honest way of his, was not necessarily sure the majority was right, at least not in the committee. Senator Beaudoin was with me again — he as deputy chair, me as chair — when a subcommittee of the Social Affairs, Science and Technology Committee, in June 2000, produced a report entitled, "Quality End-of-Life Care: The Right of Every Canadian."

This is a man who has many interests, a man who, as we have heard tonight, has many things about which he should be proud. Most of all, he should be proud of the fact that he has remained a very human man.

[ Senator St. Germain ]

**The Hon. the Speaker:** Senator LaPierre and Senator Prud'homme, I regret that the time for Senators' Statements has expired.

I shall now call on Senator Beaudoin for a response.

[Translation]

**Hon. Gérald-A. Beaudoin:** Honourable senators, I have had several careers in my life: 10 years in justice, 20 years in university and 15 years in the Senate. I quite liked the Senate.

I had the opportunity to say what I think in the Senate and I chaired very interesting committees, such as the two joint committees on the Constitution, Beaudoin-Edwards and Beaudoin-Dobbie, during the days of Prime Minister Mulroney. I quite liked the Standing Senate Committee on Legal and Constitutional Affairs, on which I sat as chair and co-chair.

[English]

The Standing Senate Committee on Legal and Constitutional Affairs was attractive. I worked with Senators Stanbury, Carstairs, Milne, Furey and, on my side, Andreychuk, Nolin and Buchanan — not to mention Senators Lynch-Staunton, Kinsella and Stratton.

I had the chance to work on committees such as the Special Senate Committee on Euthanasia and Assisted Suicide, chaired by Senator Neiman, and on the committee chaired by Senator Carstairs that produced the report entitled, "Quality End-of-Life Care: The Right of Every Canadian." I sat on the Human Rights Committee, an interesting committee created and presided over by Senator Andreychuk, and later by Senator Maheu. I also sat on the Standing Senate Committee on Official Languages, where Senator Gauthier was and is so active — an essential committee.

[Translation]

It is through these committees that the Senate is most effective and productive. We should be proud of what we accomplish in the Senate. The Senate performs an essential legislative function. This is the reason for its existence, as Senator Joyal has often pointed out. I do not know if I said that I was in favour of abolishing the Senate, but I was certainly in favour of a comprehensive reform of our institution and I have not changed my mind.

The Senate has more time to examine major issues. The Senate costs less than royal commissions and, in many cases, it reports much more quickly. Abolishing the Senate would be a very serious mistake and the negative impact on legislation would be considerable.

My true passion is, of course, constitutional law and the Canadian Charter of Rights and Freedoms. This seems obvious. I am mainly attached to the Senate. I am even prepared to come as an expert to give my opinion to committees, if you so wish.

The Senate must be reformed, it must be elected. Of course, we must respect the vested rights of those who are already here, but senators should be elected. However, an indirect election is inefficient. We should do what the Americans did in 1913. Today, they have the greatest senate in the world. The Canadian Senate is indispensable. How many bills are improved through amendments proposed by our committees? We should be congratulated instead of being criticized. It is up to us to find a way to be more visible.

What am I going to do now, people ask. A new career will begin the day after I leave here. I am going to continue to write. I have written several books in my lifetime. I have two books on the go, one of them my memoirs. I will be lecturing in Canada and elsewhere. I am a member of a number of international academies.

Primarily, I will be giving legal opinions and carrying out in-depth studies on constitutional law. That is what I was doing before I came to the Senate. I am now returning, 15 years since my appointment, to my former life.

The Senate has changed. It reflects our modern times and it must continue along that path. Artists, actors, people from the theatre have been appointed, and that must continue. The Senate must represent all walks of life. Its role is to be a good legislative chamber.

Men and women are equal. Languages are equal. Equality is important in the Canadian Charter of Rights and Freedoms. The principle of male-female equality is one of the products of the 20th century.

The finest section in the Charter is section 28.

[English]

I have been happy in the Senate. It has been a pleasure to cross the Ottawa River each day, to have the opportunity to be in two beautiful provinces. The Centre Block is like a castle, with its neo-Gothic style. I have been in the Senate for 15 years, and at the beginning of my career I was an assistant parliamentary counsel in the House of Commons. Hence, I have worked in a castle for 20 years.

[Translation]

My thanks to all who have helped me in the Senate: officers, colleagues, senior staff and all the personnel. I also want to thank my wife, who is in the gallery, and who has always been at my side. She has played a very large role for close to 50 years now. I could also like to thank my four daughters. Viviane is a public servant, Louise an artist, Denise a veterinarian, and Françoise a lawyer. I owe so much to my nearest and dearest.

[English]

A jurist I am born, and a jurist I will probably die.

Life changed in the Senate. We travel the world more, which is a fantastic advantage. We learn so much. We are more involved in

diplomacy. The legislative branch of the state is much better than it was, and we have better researchers.

• (2050)

I have not forgotten the press, which is so fundamental. I am much in favour of televised sittings. I am concerned with the unity of my country. I love history.

Quebec is lucky to be in Canada. Canada is lucky to have Quebec.

**Hon. Senators:** Hear, hear!

**Senator Beaudoin:** Canada is a great federation. The author of the Quebec Act of 1774, the great British Prime Minister Lord North, who is not well known but who was, nevertheless, a great Prime Minister, saved Canada at the time of American independence. He gave back to Quebec the French laws of previous times and he successfully kept Quebec in Canada. Lord North was a Prime Minister of great vision. That is the kind of politician I like — a politician with great vision who makes momentous decisions.

[Translation]

I am leaving content with what I have accomplished here. My thanks to you all.

[English]

## ROUTINE PROCEEDINGS

### STUDY ON CANADA-UNITED STATES AND CANADA-MEXICO TRADE RELATIONSHIP

#### INTERIM REPORT OF FOREIGN AFFAIRS COMMITTEE TABLED

**Hon. Peter A. Stollery:** Honourable senators, I have the honour to table the third report of the Foreign Affairs Committee, which was authorized to examine and report upon the Canada-United States of America trade relationship and the Canada-Mexico trade relationship. It is an interim report entitled "Mexico: Canada's Other NAFTA Partner (Volume 3)."

I ask that it be placed on the Orders of the Day for consideration at the next sitting of the Senate.



**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Stollery, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

### THE SENATE

#### MOTION TO PERMIT ELECTRONIC COVERAGE OF ROYAL ASSENT CEREMONY ADOPTED

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(i), I move:

That television cameras be permitted in the Senate chamber to record the Royal Assent ceremony on Wednesday, March 31, 2004 at 3:45 p.m. with the least possible disruption of the proceedings.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Marcel Prud'homme:** Honourable senators, I want to bring to the attention of the leadership of both parties that someone will have to ensure that very clear rules apply. We have given permission for this before, and I agreed to it. However, the permission was abused when the cameras showed absenteeism and exceptional events that did not reflect well on the Senate.

I hope that the leadership will consider my observation carefully and ensure that precise rules apply.

I was an initiator of CPAC in the House of Commons. It was a year and a half before I, as chairman of the committee, gave my consent. I wanted to ensure that the rules will be very clear, unlike those that apply in the Congress and the Senate of the United States of America. I do not say this to criticize them, but what they allow gives a very bad impression, and it does not reflect the work being done.

I will give my consent with great pleasure, if I have this commitment.

**Senator Rompkey:** Honourable senators, Senator Prud'homme's comment is well taken. It is one that I support, as I am sure does the entire chamber. Although CPAC will televise the events, as we agreed earlier, I fully agree that there must be clear rules and that we must avoid the mistakes of the past.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

### RWANDA

#### NOTICE OF MOTION TO RECOGNIZE GENOCIDE

**Hon. Mobina S. B. Jaffer:** Honourable senators, I give notice that at the next sitting of the Senate I will move that this house call upon the Government of Canada to recognize the genocide of the Rwandan people and to condemn any attempt to deny or distort a historical truth as being less than genocide, a crime against humanity.

### QUESTION PERIOD

#### PRIME MINISTER'S OFFICE

##### NATIONAL UNITY RESERVE FUND

**Hon. Jack Austin (Leader of the Government):** Honourable senators, on Wednesday, March 24, Senator LeBreton asked me a question regarding the national unity reserve fund, to which I made the following reply:

Honourable senators, the Prime Minister was not aware of a fund called the national unity reserve until the time he became Prime Minister, and that fund has in no way been used by Prime Minister Martin.

Honourable senators, I was given to understand that the Prime Minister did not know about a segregated fund known as the national unity fund. As it turns out, my information was incorrect and I wish to apologize to the chamber.

#### NATIONAL DEFENCE

##### AURORA INCREMENTAL MODERNIZATION PROJECT— TENDER FOR DATA MANAGEMENT SYSTEM

**Hon. J. Michael Forrestall:** Honourable senators, my question is directed to the Leader of the Government in the Senate.

In a written response to an earlier question about an untendered contract to General Dynamics Canada for extra scope on the data management system for the Aurora Incremental Modernization Project, I received the answer that the contract was tendered properly, but that it had merely been amended repeatedly.

• (2100)

Will the Leader of the Government please table the number of amendments, the date these amendments were made, and the corresponding changes in the value of the contract to date? I realize he will not have that information at hand, but I would appreciate his undertaking to obtain it.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I shall take notice of the question.

# REPLACEMENT OF SEA KING HELICOPTERS— TENDER FOR DATA MANAGEMENT SYSTEM

**Hon. J. Michael Forrestall:** I have a supplementary question along the same vein. The written response also stated that the data management system would not be ready for production prior to the year 2008. This is the same data management system that is supposed to go into the new maritime helicopter if Sikorsky's H-92 is successful in the competition. According to Treasury Board guidelines, in a lowest-priced compliance competition, which we understand this to be, a competitor must be absolutely technically compliant to be awarded the project. My recollection is that the competitors had to be certified prior to the awarding of the contract. The contract is expected to be awarded sometime this spring.

Can the Leader of the Government tell this chamber why, after the IN-90's disqualification, Sikorsky's H-92 is still in the Maritime Helicopter Project competition if its data management system will not be ready, by the government's own admission, until 2008? How can they be there if, to be eligible, they must be compliant?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I shall seek an answer for Senator Forrestall.

## FOREIGN AFFAIRS

### THE BUDGET—DEVELOPMENT ASSISTANCE

**Hon. A. Raynell Andreychuk:** Honourable senators, last week the Leader of the Government indicated that development aid had been cut due to an overwhelming deficit and debt that this government had "inherited" — I believe that is the word that was used. I would point out that much of that deficit started in the 1970s when in fact we had aid and development assistance that was creative.

Aid and development assistance has never been an issue of party politics in Canada. It has been an overwhelming concern of Canadians to ensure that we have full and adequate resources to work with other countries.

Is the Leader of the Government indicating that aid will now be dependent on our personal status in this country? In other words, is the government leader saying that, if we find certain priorities to be higher, Canada will again cut development aid, or will we attempt to meet the goals set by Mr. Pearson some 30 years ago in a consistent and coherent way?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, as the Minister of Finance has indicated in the budget, and in statements subsequent to the budget, it is the intention of his government to increase foreign aid year —by year. As the honourable senator knows, the current budget contains a substantial increase in foreign aid for fiscal 2004-05. I mentioned the sum last week.

I would be very happy to draw to the attention of Senator Andreychuk the statement of the Minister of Finance.

**Senator Andreychuk:** I would ask the Leader of the Government in the Senate to bring to the attention of the government my suggestion that it is time that we clearly delineate what is humanitarian assistance for man-made or natural disasters, what we spend in peacekeeping, and what we allocate for true development. While there is a willingness by Canadians to support all three, often it is the development aid budget that suffers in times of humanitarian assistance and peacekeeping.

A commendable article by David Malone in the weekend newspaper argued that to be successful in development we must be there in a sustained and continued way. Therefore, the development assistance budget must increase, not by putting everything together globally, but by having the actual development budget continue to rise to meet the goal that was set 30 years ago.

**Senator Austin:** Honourable senators, on the assumption that that was a question, I have indicated repeatedly that this government intends to improve its development budget. I have mentioned already the statements of the Minister of Finance.

However, in listening to Senator Andreychuk, a question comes to mind — which, unfortunately, she cannot answer. When I look at her leader's statements with respect to reducing taxes, I wonder whether she can assure this chamber that the development budget she is urging on this government will not be impaired by her leader, and that he will support this government's development budget fully and without qualification.

**Senator Andreychuk:** Honourable senators, I am glad the Leader of the Government in the Senate put that question to me. I should tell him that there is only one policy statement out on behalf of the Conservative Party of Canada. It is only the first building block. If one looks at it carefully, it indicates that the Conservative Party is committed to increasing aid.

As the government leader is well aware, the party is very new and hence the platform is yet to be developed. The government leader may wish to delay an election sufficiently so that we can flesh out the chapter and verse on development aid.

**Senator Austin:** Honourable senators, I am not quite that curious. However, I will look to future events, with the assurance that Senator Andreychuk and I will make equally aggressive representations to our respective parties.

## AGRICULTURE AND AGRI-FOOD

### BRITISH COLUMBIA —OUTBREAK OF AVIAN INFLUENZA IN POULTRY INDUSTRY

**Hon. Gerry St. Germain:** Honourable senators, my question is to the Leader of the Government in the Senate. It relates to the outbreak of influenza in the poultry operations in British Columbia. I received several calls on this subject this weekend. I tried to contact Honourable Senator Austin on Friday, but his calls were being screened. The woman asked me if I was calling about Bill C-250. I said, "We could make it apply to chickens, but that is not what I am calling about."



Two zones have been created on British Columbia's lower mainland: a high-risk zone, five kilometres from the original outbreak, and a 10-kilometre surveillance zone outside of that. The entire lower mainland has been established as a control area — which means that no poultry products can be shipped out of there. This includes chicken and turkeys. The cost of the poultry producers there is \$400,000 a month — that is, the inability to ship out. Producers cannot ship to Vancouver Island or to the interior. The only place these chickens can be consumed is in the lower mainland. It is surmised that, if the CFIA does not change its position, they will have to begin depopulating — I think that is the word being used nowadays — or euthanizing about 800,000 birds and hatching eggs per week.

Has the Leader of the Government any information for the poultry industry at this time in regard to relieving the situation?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, the honourable senator has usefully outlined a difficult situation in the agricultural sector in British Columbia. The avian influenza, which is type H7N3, is rampant in the hot zone and is suspected to be contagious in the chicken and turkey farms throughout the lower mainland of British Columbia. It is for that reason that the Canadian Food Inspection Agency has determined that all these flocks are high-risk and are to be depopulated, to use the phrase that Senator St. Germain has used.

• (2110)

I would advise the Senate that there are no reported cases of the more serious H5N1 avian influenza strain that has ravaged parts of Asia and is thought to be of risk to humans. The avian influenza H7N3 is not so considered.

The Government of Canada is certainly considering and, as I understand it, intends to assist with financial compensation the poultry breeders who are affected. I do not have the details of that program at this time.

**Senator St. Germain:** It is encouraging to hear, honourable senators, that the government is considering some financial assistance.

I would ask the honourable minister if he would present the case to cabinet because, in many instances, those who will be affected are young farmers who have extended themselves to finance poultry operations, both turkey and chicken. If assistance were not forthcoming, immediately, it would financially jeopardize their operations. If he would be so kind as to take that message forward, honourable senators, the people in British Columbia, who are the only ones affected, would be most appreciative.

**Senator Austin:** The situation with respect to financial costs to the poultry breeders is recognized and, as the honourable senator knows, the owners of birds that are being destroyed will receive compensation under the Health of Animals Act. However, as yet, I have no details. I will convey the honourable senator's representations along with my own.

## LEGAL AND CONSTITUTIONAL AFFAIRS

### SWEARING OF WITNESSES BEFORE COMMITTEE— RULING ON ALLEGED ERRONEOUS TESTIMONY

**Hon. David Tkachuk:** Honourable senators, my question is for the Chair of the Standing Senate Committee on Legal and Constitutional Affairs. Has the chair ever invited witnesses to swear an oath before commencing their testimony in committee?

**Hon. George J. Furey:** Honourable senators, it is not the usual practice of the committee to do that.

**Senator Tkachuk:** I was unable to attend Wednesday's meeting of the Standing Senate Committee on Legal and Constitutional Affairs. However, I did read the testimony, and in particular, the ruling of the chair on a question of privilege that I raised. For the benefit of the chamber, I had asked for a ruling because, during the committee meeting that I attended, MP Svend Robson gave testimony that I suspected to be untrue. We asked the witness for clarification, but he did not withdraw any of his statements, even though I am aware that he has been fighting this issue for quite a number of years and would most certainly have been aware of all those who supported and who opposed his private member's bill. When a member of the committee is persuaded that the committee has received deliberately deceptive testimony and raises a question of privilege, what procedure is the chair to follow?

**Senator Furey:** On the question of whether or not it was a point of order, Senator Tkachuk raised the issue himself. He said he was not sure it was a point of order, a question of privilege or either of the above.

Honourable senators, I do not have the ruling in front of me but I will provide you with a copy if you do not have it. The ruling was that it was not a point of order, and if it was a question of privilege, the place to raise it was here in the chamber.

**Senator Tkachuk:** Honourable senators, we were asked if there were witnesses that we thought should appear before the committee. One group called me requesting to be heard, and I met with them early last week. They represent a national organization and I was persuaded that the committee had not heard their position and they should be called to appear. I forwarded the name of the organization to Senator Beaudoin who passed it along using the appropriate channels. Could the chair explain why, instead of hearing from this group, the bill was reported from committee? Does the chair have a problem with this group?

**Senator Furey:** Honourable senators, I do not believe the committee had a problem with hearing from any group. The question was answered at committee, but the honourable senator did not attend the last meeting of the committee. I shall provide him with the response, if he does not have it in front of him.

**Senator Tkachuk:** I do not have it in front of me. I am not a member of the committee, and I would like to know the response.

**Senator Furey:** I shall provide that to the honourable senator.

## FOREIGN AFFAIRS

### UNITED STATES— PARTICIPATION IN MISSILE DEFENCE SYSTEM

**Hon. Douglas Roche:** Is the Leader of the Government in the Senate aware that, within recent days, two important statements by high ranking United States figures have been made cautioning Canada not to join the U.S. ballistic missile defence system? First a group of 49 former U.S. generals, admirals and senior officers, including a former Chairman of the Joint Chiefs of Staff under Presidents Ronald Reagan and George Bush, Sr., warned Canada to reject the Bush administration's proposed system because the program is unproven and too expensive to make it worth while. Second, Philip Coyle, a former senior Pentagon official, said the system is likely to fuel the global arms race and will lead to the weaponization of space.

Will the leader draw these comments to the attention of his colleagues in the cabinet?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I thank Senator Roche for the question. I did see that report and I read it with great interest. I know that what appeared in the press, and to which Senator Roche has referred, is being considered in government halls.

**Senator Roche:** I will interpret that answer as being favourable to my position. I hope I will not be proven wrong at some future date, honourable senators.

Honourable senators, the House of Commons recently voted on this matter, as the government leader knows, and nearly three weeks ago, I introduced a motion in the Senate opposing Canadian participation in the U.S. missile defence system.

Does the leader agree that the time has come for the Senate to vote on this matter?

**Senator Austin:** Honourable senators, what I do agree with is that the inquiry initiated by Senator Roche on this topic should go forward when he is ready to speak to the chamber, and I look forward to his address.

## THE SENATE

### UNITED STATES—PARTICIPATION IN MISSILE DEFENCE SYSTEM—REQUEST FOR DEBATE

**Hon. Douglas Roche:** Honourable senators, I spoke on this matter on March 9 and I have been waiting for any other senator who wished to speak to do so. I have not noted that any senator wishes to participate in this debate. Therefore, it is time for a vote.

My question to the leader is: Is it not time, after three weeks, that we vote on a subject of extreme importance to the future of Canadian foreign policy?

**Hon. Jack Austin (Leader of the Government):** Let me apologize for the second time tonight and say to Senator Roche that I am sorry that I misstated the initiation of the debate.

I will certainly go back and consider what he had to say in this chamber. It seems to me I have been a bit overly preoccupied with a particular bill. I know that Senator Cordy has taken the adjournment, and I will make inquiries to determine her intentions.

## QUESTIONS ON THE ORDER PAPER

### REQUEST FOR ANSWERS

**Hon. John Lynch-Staunton (Leader of the Opposition):** If I may comment on delayed answers, I have had a question on the Order Paper since February 10. Could the deputy leader assure me or give me some hope that I will have an answer before Easter?

**Hon. Bill Rompkey (Deputy Leader of the Government):** Easter is a time of hope, Your Honour. I do not mean to treat the issue facetiously. It has been a while since the question was posed, so I will ensure that the answer is expedited.

• (2120)

**The Hon. the Speaker:** Does the Honourable Senator Forrestall have a question relating to a delayed answer?

**Hon. J. Michael Forrestall:** Honourable senators, I have a question that has been outstanding for 10 years. All we want are the helicopters.

**Senator Rompkey:** Honourable senators, I will consult with the deputy leader of 10 years ago to see that the answer is expedited.

## USER FEES BILL

### MESSAGE FROM COMMONS— SENATE AMENDMENTS CONCURRED IN

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons returning Bill C-212, respecting user fees, and acquainting the Senate that they have agreed to the amendments made by the Senate to this bill without further amendment.

## ORDERS OF THE DAY

### BUSINESS OF THE SENATE

**Hon. Bill Rompkey (Deputy Leader of the Government):** Your honour, I should like to call the government orders in the following sequence: Bill C-8, Bill C-24, Bill C-4, Bill C-22, Bill C-16 and Bill C-21.



## LIBRARY AND ARCHIVES OF CANADA BILL

## BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Morin, seconded by the Honourable Senator Gauthier, for the third reading of Bill C-8, to establish the Library and Archives of Canada, to amend the Copyright Act and to amend certain Acts in consequence, as amended.

**Hon. David Tkachuk:** Honourable senators, I would like to make a few remarks on Bill C-8, to establish the Library and Archives of Canada, and its predecessor, Bill C-36, under the same title from the last session of Parliament, before we conclude third reading debate.

First, I would like to congratulate the official opposition in the other place for their hard work and perseverance in committee and in the House. It will be a distant memory now, but Bill C-36 was controversial from the moment it was introduced and was mishandled at every step of the way. I hope that the government learns something from the process.

The legislation was intended to create a new institution by merging two of Canada's most venerable and historic institutions, the National Library of Canada and the National Archives of Canada, since it was acknowledged that some duplication of services existed but, more importantly, that both institutions would benefit from the synergy created by operating under one roof.

What was controversial about the bill had nothing to do with the stated aim of merging the two institutions. What was wrong with this bill was the addition of a significant amendment to the Copyright Act through clause 21 that was truly out of place and, I will add, out of line in Bill C-36.

From this point of departure, the tale becomes more twisted and complex with decisions, agreements and reversals of decision and broken agreements in the other place. After much toing and froing and in response to the incredible pressure the government members of the committee were feeling, Bill C-36 was ultimately amended at third reading by shortening the period of time that clause 21 would protect deceased authors' unpublished works to expire December 31, 2006, instead of December 31, 2017.

The tale did not end here, since the session of Parliament ended before the Senate passed Bill C-36. As Senator Morin explained in his committee report last week, the bill was introduced in the other place in February at report stage but without amendment according the rules for reintroducing legislation from the previous session, at which point it was then referred to the Senate and renamed Bill C-8. In essence, by delaying the passage of Bill C-36 until the new year in a new session of Parliament, the intended extra copyright protection for the works of deceased authors expired before the bill was reintroduced as Bill C-8, thereby making clause 21 obsolete. This made amending the bill in your Senate committee rather perfunctory, even if it satisfied many of

the original critics of that clause. The democratic victory did not occur in the Senate committee but rather in the last session of Parliament when the original version of the bill died on the Order Paper.

Honourable senators, I would like to inform this chamber that those vocal critics of Bill C-36 and later Bill C-8 should thank their official opposition in the other place for the initial work and the work of the opposition in the Senate that was carried out late in the session last fall. It was only the former Prime Minister's personal agenda that cut short that session, effectively cancelling the true government intent of Bill C-36. All honourable senators should ask why it was originally intended that Lucy Maud Montgomery's heirs would receive special legislation that would translate into a form of special compensation by this government.

**The Hon. the Speaker *pro tempore*:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker *pro tempore*:** It was moved by the Honourable Senator Morin, seconded by the Honourable Senator Gauthier, that this bill be read the third time, as amended.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

## PARLIAMENT OF CANADA ACT

## BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Morin, seconded by the Honourable Senator Downe, for the second reading of Bill C-24, to amend the Parliament of Canada Act.

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, Bill C-24 seems innocuous, but the way in which it sailed through the House of Commons bothered me. That alerted me to look at it more carefully and honourable senators should do that. It is the role of senators to question and challenge proposed legislation from the other place, particularly that which is rushed through as this one was rushed.

Bill C-24 was given first reading in the other place on March 12 shortly after noon, and 10 minutes later, after unanimous agreement, second reading debate began. The minister, a member of each of the recognized parties and the member from Calgary Centre spoke. No other speaker rose and, within the next 20 seconds, pursuant to a House order, the bill was deemed read a second time; it was deemed referred to a committee, even though it was not referred to a committee; it was deemed reported without amendment, even though not a single witness was called and no clause-by-clause discussion was held; it was deemed concurred in at report stage, even though there was no report; it was deemed read the third time without a single intervention by any member of the other place; and it was deemed passed. All this process took less than 20 seconds.

Doing this so swiftly on a Friday afternoon can only raise suspicions, which are not to Parliament's credit. If there are good and valid reasons for this bill, why rush it through in record time on the eve of a weekend before a near-empty chamber and gallery?

This is not the first time that we have been faced with such an accelerated process. Honourable senators will remember Bill C-37, which came to the Senate in June 2000. It sailed through the other place a few sitting days prior to the summer adjournment. At least they slowed the process by deferring the vote to the following day. In June 2003, Bill C-39, also a bill to benefit parliamentarians, similar to the previous one I mentioned, sailed through at third reading 15 minutes later.

Parliamentarians seem to have an inability to put their cards on the table and to say to Canadians that they think they are entitled to a certain level of remuneration and benefits that can be compared to others. We seem to have this terrible reaction that Canadians do not feel that their parliamentarians or representatives should be properly remunerated — I disagree with that. I think most Canadians, while disagreeing with many of the things we do, respect the fact that there are Canadians who are willing to sacrifice themselves. Most parliamentarians, particularly those on the elected side, give up a lot to come to Ottawa and serve Canadians and are entitled to proper remuneration — pay, benefits, et cetera.

• (2130)

Honourable senators, we are faced with this bill, which I am told — and I hope that at committee this will be explained — is designed to favour one person only. There happens to be one person in the House of Commons who is suffering a certain disability and who, should that person leave the House without the benefit of this bill, will suffer some difficulty in meeting whatever expenses are necessary to meet that person's medication and care.

I am sensitive to that situation, but I feel awkward and embarrassed that I have to solve that problem by having to be asked to pass a bill to not only favour that person but extend it to all of us. Let me tell honourable senators one thing about this bill that is being argued both by the minister in the other place and by Senator Morin in this place. The argument is that this bill will bring the benefit package to the level similar to that of civil servants. That is not true. No civil servant is entitled to a benefit package — meaning disability, group insurance, et cetera — unless that person is receiving a pension. In this case, the member of Parliament need not be receiving a pension and is still entitled to the package. Now, if that is correct, why did the members of the House of Commons not get up and ask for what they deserve? We should not pretend that the argument for this bill is that it is equivalent to what civil servants are receiving. The argument should be that members of Parliament are in a special situation, a demanding situation, one greater than that of civil servants and should be entitled to special treatment. I am saying that elected members of the House are in a situation that is such that I would give them every benefit possible, but I would do it in an open way.

My hope is that we will refer this bill to committee and discuss it openly. There must be another solution. Three times since I have been in this place, we have been called on to pass general legislation to favour one or two individuals in particular. That is wrong; not wrong for the individual being covered but wrong that Parliament should be called on to do so. There must be a way, as there is in private corporations and large businesses, so that the agreement with employees covers an individual when he or she suffers a certain incapacity. Why do we have to put Parliament in this awkward situation?

Honourable senators, the argument is not against the bill; the argument is against the way our representatives are being treated and, unfortunately as we saw in the press when this bill was rushed through the other place, exposed to unfair criticism. I hope that the Senate can correct that perception in front of the committee and come up with a solution so we do not have to again endure embarrassing, unfortunate and what should be unnecessary legislation as is before us now.

**The Hon. the Speaker pro tempore:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker pro tempore:** It was moved by the Honourable Senator Morin, seconded by the Honourable Senator Downe, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

#### REFERRED TO COMMITTEE

**The Hon. the Speaker pro tempore:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Morin, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

#### PARLIAMENT OF CANADA ACT

#### BILL TO AMEND—THIRD READING MOTION IN AMENDMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Austin, P.C., seconded by the Honourable Senator Rompkey, P.C., for the third reading of Bill C-4, to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence,

And on the motion in amendment of the Honourable Senator Bryden, seconded by the Honourable Senator Sparrow, that the Bill be not now read a third time but that it be amended,



(a) on page 1, in the English version, by replacing the long title with the following:

"An Act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Counsellor) and other Acts in consequence";

(b) in clause 2,

(i) on page 1, by replacing lines 8 to 27 with the following:

"20.1 (1) Subject to subsection (2), the Senate shall, by resolution and with the consent of the leaders of all recognized parties in the Senate, appoint a Senate Ethics Counsellor.

(2) If the position of Senate Ethics Counsellor is vacant for 30 sitting days, the Senate shall, by resolution and after consultation with the leaders of all recognized parties in the Senate, appoint a Senate Ethics Counsellor.

20.2 The Senate Ethics Counsellor shall be a member in good standing of the bar of a province or the Chambre des notaires du Québec.

20.3 (1) The Senate Ethics Counsellor holds office during good behaviour for a term of seven years and may be removed for cause, with the consent of the leaders of all recognized parties in the Senate, by resolution of the Senate.

(2) The Senate Ethics Counsellor, on the expiration of a first or subsequent term of office, is eligible to be re-appointed for a further term not exceeding seven years."

(ii) on page 2, by deleting lines 1 to 49,

(iii) on page 3,

(A) by deleting lines 1 to 12,

(B) by replacing lines 13 to 18, with the following:

"20.4 (1) The Senate Ethics Counsellor shall assist members of the Senate by providing confidential advice with respect to any code of conduct adopted by the Senate for its members and shall perform the duties and functions assigned to the Senate Ethics Counsellor by the Senate.", and

(C) by replacing line 43, with the following:

"20.5 (1) The Senate Ethics Counsellor, or any",

(iv) on page 4, by deleting lines 16 to 24, and

(v) in the English version, by replacing the expression "Senate Ethics Officer" with the expression "Senate Ethics Counsellor" wherever it occurs;

(c) in clause 4, on page 7, by replacing line 8, with the following:

"72.06 For the purposes of sections 20.4,";

(d) in clause 6, on page 11, by replacing lines 37 and 38, with the following:

"(d) the Ethics Commissioner";

(e) in clause 7, on page 12, by replacing lines 7 and 8, with the following:

"any committee or member of either House or the Ethics Commis-";

(f) in clause 8, on page 12,

(i) by replacing lines 14 and 15, with the following:

"(c) with respect to the Senate, the", and

(ii) by replacing lines 28 and 29, with the following:

"Commons, Library of Parliament and office of";

(g) in clause 9, on page 13, by replacing the heading before line 1, with the following:

"SENATE, HOUSE OF COMMONS, LIBRARY OF PARLIAMENT AND OFFICE OF THE ETHICS COMMISSIONER";

(h) in clause 10, on page 13,

(i) by replacing line 7, with the following:

"ment", and

(ii) by replacing lines 14 and 15, with the following:

"Parliament or office of the Ethics Commis-";

(i) in clause 11, on page 13, by replacing lines 21 and 22 with the following:

"brary of Parliament and office of the Ethics Com-";

(j) in clause 12,

(i) on page 13,

(A) by replacing line 30, with the following:

"Parliament", and

(B) by replacing line 36, with the following:

"Parliament", and

(ii) on page 14,

(A) by replacing line 3, with the following:

“ment or”,

(B) by replacing lines 6 and 7, with the following:

“of Commons, Library of Parliament or office of the”,

(C) by replacing line 12, with the following:

“ment or”,

(D) by replacing lines 16 and 17, with the following:

“House of Commons, Library of Parliament or office of”,

(E) by replacing lines 25 and 26, with the following:

“mons, Library of Parliament or office of the Ethics”,

(F) by replacing line 33, with the following:

“ment or”, and

(G) by replacing line 38, with the following:

“Parliament”;

(k) in clause 13,

(i) on page 14, by replacing lines 47 and 48, with the following:

“Commons, Library of Parliament or office of”,  
and

(ii) on page 15,

(A) by replacing lines 13 and 14, with the following:

“of Parliament or office of the Ethics Commis-”,

(B) by replacing lines 22 and 23, with the following:

“of Parliament or office of the Ethics”, and

(C) by replacing lines 35 and 36, with the following:

“ment or office of the Ethics Com-”;

(l) in clause 14,

(i) on page 15, by replacing lines 43 and 44, with the following:

“brary of Parliament or office of the Ethics Commis-”, and

(ii) on page 16, by replacing lines 6 and 7, with the following:

“Parliament or office of the Ethics Commission-”;

(m) in clause 15,

(i) on page 16,

(A) by replacing lines 14 and 15, with the following:

“House of Commons, Library of Parliament or office of ”.

(B) by replacing lines 20 and 21, with the following:

“Library of Parliament or office of the Ethics Commis-”,

(C) by replacing line 29, with the following:

“ment or”,

(D) by replacing lines 34 and 35, with the following:

“House of Commons, Library of Parliament or office of”, and

(E) by replacing lines 41 and 42, with the following:

“brary of Parliament or office of the Ethics Commis-”, and

(ii) on page 17, by replacing line 1 with the following:

“ment or”;

(n) in clause 16, on page 17, by replacing lines 11 and 12, with the following:

“mons, Library of Parliament or office of the Ethics”;

(o) in clause 17, on page 17, by replacing lines 20 and 21, with the following:

“Library of Parliament or office of the Ethics Commis-”;

(p) in clause 18, on page 17, by replacing line 30, with the following:

“ment”;

(q) in clause 25, on page 20, by replacing lines 26 and 27, with the following:

“Library of Parliament or office of the”;

(r) in clause 26, on page 20, by replacing lines 36 and 37, with the following:

“(c.1) the office of the Ethics”;



(s) in clause 27, on page 21, by replacing line 9, with the following:

“Parliament”;

(t) in clause 28, on page 21,

(i) by replacing lines 20 and 21, with the following:

“Library of Parliament or office of the Ethics Commis-”, and

(ii) by replacing lines 28 and 29, with the following:

“Commons, Library of Parliament or office of the”;

(u) in clause 29, on page 22, by replacing lines 14 and 15, with the following:

“Commons, Library of Parliament and office of the Ethics”;

(v) in clause 30, on page 22, by replacing lines 24 and 25, with the following:

“Library of Parliament or office of the Ethics Com-”;

(w) in clause 31, on page 22, by replacing line 33, with the following:

“ment”;

(x) in clause 32, on page 22, by replacing lines 38 and 39, with the following:

“of Parliament or office of the Ethics Commissioner,”;

(y) in clause 33, on page 23,

(i) by replacing line 3, with the following:

**“word “or” at the end of paragraph (b), by adding the word “or” at the end of paragraph (c) and”, and**

(ii) by replacing lines 6 to 8, with the following:

“(d) the office of the Ethics Commissioner”;

(z) in clause 34, on page 23, by replacing lines 15 to 17, with the following:

“(c.1) the office of the Ethics Commissioner”;

(z.1) in clause 36, on page 24, by replacing lines 11 and 12, with the following:

“Commons, Library of Parliament and office of the”;

(z.2) in clause 37, on page 24,

(i) by replacing line 22, with the following:

“Parliament”, and

(ii) by replacing line 31, with the following:

“ment or”;

(z.3) in clause 38, on page 25, by replacing lines 12 and 13, with the following:

“any committee or member of either House or the Ethics Commis-”;

(z.4) in clause 40,

(i) on page 28,

(A) by replacing lines 4 and 5, with the following:

“communes, à la bibliothèque du Parlement ou”,

(B) by replacing lines 17 and 18, with the following:

“ment ou au commissariat à l'éthique par”,

(C) by replacing lines 28 and 29, with the following:

“House of Commons, Library of Parliament or office of”,

(D) by replacing lines 34 and 35, with the following:

“Library of Parliament or office of the Ethics Commis-”, and

(E) by replacing line 43, with the following:

“ment or”, and

(ii) on page 29,

(A) by replacing lines 2 and 3, with the following:

“House of Commons, Library of Parliament or office of”,

(B) by replacing line 13, with the following:

“ment or”,

(C) by replacing lines 19 and 20, with the following:

“brary of Parliament or office of the Ethics Commis-”,

(D) by replacing line 26, with the following:

“ment or”, and

(E) by replacing lines 38 and 39, with the following:

“Commons, Library of Parliament or office of the Ethics”, and

(iii) on page 30,

(A) by replacing lines 5 and 6, with the following:

"Library of Parliament or office of the Ethics Commis-",

(B) by replacing lines 20 and 21, with the following:

"Library of Parliament or the office of the",

(C) by replacing lines 25 and 26, with the following:

"Commons, the Library of Parliament or the",

(D) by replacing lines 36 and 37, with the following:

"Commons, the Library of Parliament or the",  
and

(E) by replacing lines 42 and 43, with the following:

"Parliament or the office of the Ethics Commis-"; and

(z.5) in clause 41, on page 31,

(i) by replacing lines 23 and 24, with the following:

"Commons, Library of Parliament and office of the", and

(ii) by replacing lines 43 and 44, with the following:

"Commons, Library of Parliament and office of the".

*(Pursuant to the Order adopted on March 26, 2004, all questions will be put to dispose of third reading of Bill C-4 at 5 p.m. on March 30, 2004.)*

**Hon. Donald H. Oliver:** Honourable senators, I am pleased to rise tonight to once more join in the debate on the vital issues and enduring implications of Bill C-4. I consider this debate to be an important event in the history of this Senate.

First, though, I would like to make a few general remarks on the importance of the concept of integrity in our deliberations. As I am sure everyone here would agree, much of this debate has been about integrity and its critical importance both to us as individuals and to us as representatives of this great and honourable Canadian institution.

Allow me to underscore that importance with an observation from a great Canadian, the late Yousuf Karsh. He saw his work as "contemporary historical documents." For more than 60 years he captured the essence of the world famous in politics, theology, royalty, the arts and sciences, and the military. His 1941 portrait

of a glowering, defiant Churchill taken in Ottawa came to symbolize Britain's indomitable wartime courage and catapulted Karsh into international fame. As a result of this and many other memorable encounters, he had this to say:

I have found that great people do have in common an immense belief in themselves and in their mission. They also have great determination as well as an ability to work hard. At the crucial moment of decision, they draw on their accumulated wisdom. Above all, they have integrity."

Based on my long experience with honourable senators, I know that we too share an immense belief in our mission. We are determined. We do work hard. We often draw on our collective and accumulated wisdom. Above all, we have integrity.

However, as others have also pointed out both in this chamber and in committee, we cannot ignore what is happening around us. The erosion of public trust in government institutions is a worldwide phenomenon. Gallup International's 2002 Voice of the People survey asked 36,000 citizens across 47 countries to rate their level of trust in 17 different institutions "to operate in the best interest of society." The survey showed that "around the world, the principal democratic institution in each country," the Parliament or Congress, "is the least trusted of the 17 institutions tested, including global companies."

Closer to home, a survey conducted in 2002 by the Centre for Research and Information on Canada, CRIC, showed that the trust of Canadians "in their governments to protect the programs that they care about has slipped significantly since the year 2000." It also showed that while confidence in political leaders is rising, most Canadians rate political leaders lower than the heads of major companies in terms of honesty and ethical standards.

• (2140)

Sadly, in the wake of the recent sponsorship scandal, the faith of Canadians in the integrity of politicians and government has reached an all-time low. For example, a survey of Canadian business leaders, conducted by Compass for the *Financial Post* this last February, showed that 85 per cent of these leaders rate the sponsorship scandal as "a very serious issue," far more serious than the railway scandals that affected Sir John A. Macdonald's government and more than the pipeline scandals that propelled John Diefenbaker to a landslide victory. These leaders are convinced that the scandal has shattered public confidence in the honesty of politicians and government.

The sponsorship scandal is indeed a disgrace, and I trust and hope that it will be resolved soon. However, we should remember that Bill C-4 is not part of that solution. It is simply a bill that is fundamentally designed to determine the method of appointing a Senate ethics officer or counsellor.

Honourable senators, tonight and tomorrow and the next few days we have a choice here — to do the easy thing and let this bill pass, or to do the right thing and make sure that the process of selecting and appointing a Senate ethics officer upholds the honour, dignity and independence of the Senate. Now is the time for us to do what is right.



Doing the right thing is the essence of integrity and the foundation of enduring trust. That is why I have advocated for a robust and meaningful code of conduct for this august chamber for the last 12 years; but it all begins with a counsellor who is independent, and the process in this bill is fundamentally flawed.

Honourable senators, even though it has been quoted to you on several occasions by several speakers, one cannot help but go back to the main language in Bill C-4, proposed section 20.1. The language is clear and unmistakeable. "The Governor in Council shall..." Nothing could be clearer. In other words, not the Senate; this is not a Senate initiative. It does not become a Senate initiative until we read the amendment of Senator Bryden that I will deal with in some length later on.

However, this much is clear. First, the proposed section contains the mandatory "shall," which says this is how it will happen and no other way. Who has the power? The Governor in Council. Frankly, we do not have to read any further to realize and understand the true intent of the government in relation to this bill.

That is why I support, in large measure, the amendment tabled by Senator Bryden last Thursday. Overall, this amendment would serve to rebuild public trust in the integrity of parliamentarians and buttress the respect that society places in Parliament as an institution. It would reassure the public that all parliamentarians place the public interest ahead of their private interests and provide the means by which the questions of parliamentarians relating to proper conduct may be answered by an independent, not a partisan, adviser.

Contrary to what some of our honourable colleagues stated in this debate last week, I do not believe that we will jeopardize our integrity before Canadians if we amend this bill, as proposed by Senator Bryden, to make it right. Let us remember, after all, what the real problems, when the press and the public have criticized the role and responsibilities of the current Ethics Counsellor, really are. They know that the Red Book spoke of an independent ethics counsellor. The current Ethics Counsellor is appointed by the Prime Minister and serves at the Prime Minister's pleasure. Therefore, the office is neither independent nor impartial in deciding questions of ethical import with respect to the Prime Minister or the members serving under the Prime Minister. As a result of this fundamental flaw, the current Ethics Counsellor has been widely criticized in the media for acting "like a lapdog rather than like a watchdog."

As Bill C-4 stands now, it not only continues to provide the Prime Minister with this control and influence, but it suggests that he would also have similar control over the ethics officer appointed to the Senate. I suggest to honourable senators that if the Senate blindly accepts Bill C-4 as it now stands, then we, too, would be seen as lapdogs, not watchdogs. We, too, would compromise our independence.

That independence is crucial to preserving our integrity. The Senate, and not the Governor in Council, must appoint the Senate ethics officer, and we should do it by resolution of this chamber.

As McGill Professor Fabian Gélinas pointed out to the Standing Senate Committee on Rules, Procedures and the Rights of Parliament, and as Senator Bryden reminded us last week, the Governor in Council does indeed have the last word under Bill C-4. I am aware that other honourable senators have quoted from the professor at length. I would like to quote again his precise words. Here is what he said.

...the last word here is not with the Senate.

Honourable senators, it is not with us. We do not have any last word. It has been dictated, and it is coming over from PCO, PMO.

It seems to be that it is quite possible, under the bill, for the Governor in Council to appoint someone and get the resolution passed in the Senate. In terms of political realities, the last word is actually with the government and not really with the Senate. What the Senate can do is stop it. This is negative power, not a positive power.

Therefore, when the inevitable vacancy arises, the Governor in Council can appoint an ethics officer for six months, and the Senate, as an independent body, would have no recourse. That is what the bill says. However, if the Senate establishes the process of consultation and appoints the counsellor, this would be more binding on future governments.

I would like to go back to what was originally offered to us by the Leader of the Government in the Senate, Senator Austin. When he spoke on February 24, 2004, I read his words very carefully. Honourable senators will recall that in my remarks the next day I asked him a number of questions concerning them.

We on this side are approximately 20 senators. The government side is approximately 80 senators. I said to myself, how can we possibly have something that is fair given that four-to-one ratio? Senator Austin answered that question in part when he spoke on February 24. He said, "What I will offer you — and I come here to make this commitment — I will give you a double majority. What I am going to do is let each majority have their say."

He did not elaborate so I asked him what that offer meant? Does it mean that the government side votes and that they must come up with a majority, and then the opposition side votes? I did not get an answer. What does it really mean?

I said that if we are a small opposition of only 20 senators, that would be fair. If each majority could vote and the decision could be taken that way, there would be no pressure on the minority, which would bring some sense of equality to the process.

It was not until my leader, the Leader of the Opposition in the Senate, Senator Lynch-Staunton, went to the Bible of this place — the Constitution of Canada — and read section 36. He confronted Senator Austin and said that this is not the case.

First I will read what Senator Austin said on February 24 when he attempted to assuage fears about compromising the independence of the Senate. He said:

...on behalf of the government I now make a commitment that prior to sending the Senate the name of any person to be proposed to the Senate to be a Senate ethics officer, the Leader of the Government in the Senate shall be authorized to consult informally with the leaders of every recognized party in the Senate and with other senators and shall be authorized to submit to the Governor in Council the names of such persons who shall, in the opinion of the Leader of the Government in the Senate —

— which gives an absolute discretion —

— have the favour of leaders of every recognized party —

— and this is the key part —

— as well as the support of the majority of the senators on the government side and the majority of the senators on the opposition side.

(2150)

I did not understand that then, nor do I now understand exactly what that means.

I questioned Senator Austin the next day on the concept of a double majority. I asked whether there would be a standing vote or a secret ballot, whether there would be opportunities to interview the candidates and what would happen if there were tie votes in the results.

Last Wednesday, Senator Lynch-Staunton also asked Senator Austin about his suggested requirement of a majority on the government side and the opposition side. Specifically, Senator Lynch-Staunton wanted to know whether this commitment would contravene section 36 of the Constitution — and I quote:

Questions arising in the Senate shall be decided by a majority of Voices...

There is no possibility of a double majority. There is no possibility under the commitment made by the Leader of the Government in the Senate to the opposition that we can have that protection. We are left out on our own.

Senator Austin then admitted that his undertaking would not require a vote.

Rather, it requires a consultation and the approval of both the Leader of the Government in the Senate and the Leader of the Opposition in the Senate, as well as the advice of each that a majority of our respective supporters would support such a resolution.

No vote would be required. Some informal process would take place, but one that provides absolutely no security or protection whatsoever to a minority of some 20 or less in the opposition.

As I said last month — and I repeat it now — for something as important and meaningful as having a proper code of conduct

and an independent officer to administer that code in the Senate, we need to have more than a commitment that is not binding.

Professor Gélinas quoted the following from page 610 of Latham's landmark parliamentary reference, *The Law and the Commonwealth*:

In domestic affairs, agreement rarely, if ever, creates constitutional convention because the usual parties, namely ministers, members of Parliament, the Houses of Parliament and the King, have no moral authority to bind their successors by mere agreement apart from precedent, but in Commonwealth relations, it has long been recognized that the agreement of the executive government of a member binds its successors because it would be derogatory to its autonomy if other members, in order to ascertain their rights and obligations in relation to it, were compelled to examine its internal affairs.

As Senator Austin admitted last week "no Parliament can bind a future Parliament." However, he hopes "that that might take place."

We need certainty, honourable senators, not hope. Bill C-4 does not provide that certainty. This bill as it is now presented is inherently flawed. It does not uphold the Senate's independence from the House of Commons — and Senator Joyal has aptly and ably made that point on more than one occasion. Although the Senate may refuse the Governor in Council's nomination for the position, the power to select or present choices about the possible counsellor still rests with the Prime Minister. This is wrong. It makes the appointment process too political and it would taint the ethics counsellor before he or she ever came on board.

The language of the bill creates too much uncertainty, especially with respect to consultation with the Senate. It says that the Leader of the Government in the Senate is authorized to consult informally with other senators about suggestions for an ethics counsellor. Is that the basis upon which we wish to choose the person to oversee conflicts of interest, and so on? However, there is no obligation to do that — that is, to consult informally — according to the Professor Gélinas. A resolution of the Senate is still required for a permanent appointment to the position. This roundabout process makes no sense whatsoever to me. Why bother with having the Governor in Council vet the suggestions of the Senate and vice versa?

Last week, Senator Austin also said the following:

The critical objective is to ensure that the Senate ethics officer both is and is clearly seen to be independent.

Honourable senators, clause 20.1 of Bill C-4 reads, in part, as follows:

The Governor in Council shall, by commission under the Great Seal, appoint...

Honourable senators, where is the independence in that clear language?



Senator Austin went on to say:

Let us be clear what independence we are talking about. He or she must be — and must be seen by Canadians to be — independent of us, the people whose conduct he or she will be overseeing.

Honourable senators, which method would better ensure than that the Senate ethics counsellor both would be and would be seen to be independent: an ethics counsellor chosen from a list compiled by the Governor in Council with suggestions by the Leader of the Government in the Senate culled through informal chats with his or her fellow senators, or an ethics counsellor chosen with the consent of all party leaders and ultimately appointed by resolution of the Senate?

Last week, Senator Austin seemed to suggest that the primary role of the Senate ethics counsellor is to oversee the conduct of the Senate in a policing sense and not in a counselling sense. As I have said before repeatedly, this position and the code of conduct are not about creating a criminal or quasi-criminal regime. This is not about censuring senators for conflict of interest. This is not about making us fall in line because we are doing whatever we want. The fundamental purpose of this position and the code is to ensure that the rules are clear, that they are understood by everyone and that, if anyone has a question about the rules, he or she can turn to an independent, impartial counsellor and obtain a reasoned response — not to an individual who has been appointed by the Governor in Council.

Equally important, honourable senators, let us remember that the Senate has the right to govern its internal operations. There is an important constitutional separation of powers between the judiciary and the legislative branch. The current bill creates a considerable risk, in my opinion and that of Senators Joyal, Grafstein and others, of judicial interference in the actions of the ethics counsellor, directly interfering with the constitutional independence of the Senate and the privileges, rights and obligations of each and every individual senator.

By contrast, Senator Bryden's amendment addresses many of my concerns and, I am sure, the concerns of Canadians as a whole. First, the amendment says:

...the Senate shall, by resolution and with the consent of the leaders of all recognized parties in the Senate, appoint a Senate Ethics Counsellor.

What could be clearer and more correct, given the powers and the separation of this chamber?

Resolution and consent are a far more fair, equitable and trustworthy way to ensure that all of the right people have agreed on an appropriate appointee, rather than simply authorizing someone to informally consult.

[ Senator Oliver ]

Second, Senator Bryden's amendment eliminates the possibility of a prolonged vacancy in the appointment of a Senate ethics counsellor. In the absence of concurrence on the appropriate appointee, Bill C-4 currently enables the Governor in Council to appoint an interim counsellor for a six-month term. For six months, a PMO appointment may make decisions under this bill. What protection is that for anyone?

The proposed amendment, on the other hand, outlines a clear and time-sensitive alternative in the event of a deadlock, and makes eminent good sense.

If the position of Senate Ethics Counsellor is vacant for 30 sitting days, the Senate shall, by resolution and after consultation with the leaders of all recognized parties in the Senate, appoint a Senate Ethics Counsellor

Seems right and fair to me. It seems right and fair to me.

• (2200)

This clarity and this certainty ensures that ethical oversight in the Senate will never be left in abeyance for an indeterminate time. It will provide the members of this chamber with the peace of mind that their ethical questions can be answered within a reasonable amount of time. Canadians will know that ethical oversight of Senate affairs is one thing they never have to question.

Third, and most important, Senator Bryden's amendment maintains the independence of the Senate. Honourable senators, that is something of which I am proud. It is something which is important to me, and I know it is important to certain other senators. As Senator Bryden pointed out last week, as it stands now, Bill C-4 creates a framework for the institution "that is outside the Senate as we know it."

Under his proposed amendment, however, it is stated that:

The ethics counsellor will accomplish what needs to be done, objectively and helpfully, for this autonomous and independent chamber, which has been that way for 137 years...

Soon, honourable senators, if we go along with Bill C-4, we will lose what we have had for all those years. It will be swept away and taken over by the PMO. The proposed amendment continues as follows:

...without creating a new creature that, once set on its feet and started to run, there is some question as to where it will go...

Like Senator Bryden, I believe that the defence of this institution and its rights, its independence and its autonomy, is a matter of fundamental principle.

In summary, I believe that Senator Bryden's amendment ensures that the process for selecting a Senate ethics counsellor is fair and equitable. It also provides clarity and certainty about when and how this counsellor will serve this house, and it upholds the independence of the Senate. It will serve to achieve the basic purposes of this new ethics framework, which include the ethics counsellor and the code of official conduct.

These purposes are, first, to assure Canadians that the Senate and its representatives place the public interest ahead of a parliamentarian's private interest by establishing a transparent system by which the public may judge this to be the case; second, to provide certainty and guidance to parliamentarians on how to reconcile their private interests with their public duties; and, third, to foster consensus among parliamentarians by establishing common rules and by providing the means by which questions relating to proper conduct may be answered by an independent non-partisan advisor.

Above all, I believe Senator Bryden's amendment will maintain the trust that Canadians have in the integrity of the Senate. Honourable senators, that is of paramount importance to me, especially in these times when many Canadians are questioning the trustworthiness of government.

As Adlai E. Stevenson, Governor of Illinois said more than 50 years ago:

Public confidence in the integrity of the Government is indispensable to faith in democracy; and when we lose faith in the system, we have lost faith in everything we fight and spend for.

Honourable senators, we must do our part to restore the faith of Canadians in the system, in government, in the Senate and in democracy. We must support Senator Bryden's reasoned amendment. We must do the right thing, not the easy thing.

I thank honourable senators for their attention.

**Some Hon. Senators:** Hear, hear!

**Hon. Richard H. Kroft:** Honourable senators, it is no secret that I have had concerns about the so-called ethics package for a very long time. I have spoken formally in this chamber, principally on November 6, 2003. I questioned and debated with other speakers and have been engaged with many of you individually and in groups. Clearly, I have been preoccupied with the issue.

On November 27, 2003, along with 46 of you, including 20 of my Liberal colleagues, I voted in favour of an amendment put forward by Senator Bryden that led to Bill C-34 being referred back to the other place.

My commitment to the principles and beliefs set out in my speech of November 6 remain as strong now as they were then.

Like most in this chamber, I support the concept of an ethics officer for the Senate. Having said that, I have serious concerns about some aspects of the office and of the rules that will govern it. Indeed, I believe and have always believed, that the heart of the issue lies in the rules. It is in the rules, our rules, that we will succeed or fail in further enhancing the outstanding ethical standard we now have in the Senate.

I place more importance on the officer in the role of advisor or counsellor than as auditor or enforcer. I believe the greatest value of the position, operating on carefully constructed rules, will be to assist in strengthening the existing culture of prudent behaviour in the Senate and thoughtful planning by individual senators in their personal, professional and business affairs. It is absolutely essential in order to gain the full benefit from this new office that we use it to assure at all times that our conduct is personally and institutionally correct, rather than to think of it primarily as a system to investigate and expose what would be very rare cases of wrongdoing. This is a matter of mindset that will be very important as we go about the making of our rules.

Working with the ethics officer, senators would be able with more certainty than now to determine if they have or are contemplating a situation that might call for some action or be reportable. The interaction between the ethics officer and a senator might result in various decisions. It could mean the senator chooses not to undertake a contemplated activity; or, more likely, it could mean that the senator, through whatever means are adopted under our rules, simply reports or declares his or her position on the public record.

The central issue for me is the power of information. Our rules should be designed to show the public in what activities senators are engaged, be they directorships, businesses or not-for-profit service.

With this information clearly reported, the words and actions of a senator can be fairly judged. In some cases it will be clear that a senator should not participate in a debate, a committee or a vote, depending on the circumstances. None of these measures is dramatically new or revolutionary. They exist in parts of our present rules, in other legislative bodies and in ordinary commercial and corporate practice. I have complete confidence that we can produce a regime that is fair, sensible and constructive.

Let me now turn to the bill. Last November, I voted to send Bill C-34 back to the other place because I felt strongly that it failed to meet our needs in some important respects and that its immediate passage was not essential to the government of the day. I believed there was no need for us to pre-empt important thought and debate on the broad ethics issue that only more time could make possible. That was my judgment then and I have seen no reason to revise it since.

Indeed, each day this issue is before us confirms the value of more opportunity for reflection. Now is a different time, however. It is incumbent upon all of us to give sober second thought and to make hard decisions. Thus, we must ask what are the realities today.



For one thing, the broad political context is very different from what it was last November. For a variety of reasons, including issues before the public, changes of leadership of parties and, indeed, changes of parties themselves, the macropolitical environment has been dramatically altered. I believe further debate in the other place at this time would not serve the objective of building a solid ethics regime in either House of Parliament. I am not shy about admitting that our government has other priorities.

Equally, I am quite conscious of the opposition's situation in the other place. While senators opposite might urge us to send the bill back so a few modest changes the Senate wants can be made, I doubt very much their counterparts in that place would take such a benign and constructive view, tidy it up and quickly return it to us. It is hard to imagine a debate in the Commons on an amended Bill C-4 that would be helpful in pursuit of new ethics regimes in either House of Parliament.

• (2210)

Next, I should like to address the efforts the government has made, through the Leader of the Government in the Senate, to help the Senate reach a consensus.

We know where Senator Austin has personally stood on this issue from the beginning. He made that very clear in a public way. I am also satisfied that he has made great efforts, as a member of the government, to close the gap between the limited terms of the legislation and the real and practical meaning of it for the Senate. The government, through his urging, has made some effort to accommodate the needs of the Senate. The fact of that effort, and the understanding that has been gained on all sides as a result of it, again confirms my belief that we were correct last November when we acted to slow the process. Had we not, we would clearly be in a lesser position than we are today.

Where are we now? Is it meaningful to say that we are going to create a convention? That is a debatable proposition but, on the other hand, conventions, like precedents, have to begin somewhere. I do accept as a minimum that it raises the political threshold. A future government would be at some peril in trying to turn back the clock on the Senate. How great the peril will depend on many things, including the public's perception of the Senate at that moment. Each time the process is utilized over the years, if it is, the threshold will be raised yet again. The hope, over time, is to move from accommodation to precedent to convention. That is the case the Leader of the Government in the Senate has brought to us, and I believe it is one that merits our careful consideration.

I repeat, honourable senators: Had the Senate not exercised its independence by amending Bill C-34, none of this thought, debate and government recognition of the Senate's position would have happened. Even acknowledging that the concept of a convention is fragile, had the vote been forced in November, the proposed convention would not exist at all. None of the analysis, debate and declaration of government intentions would have taken place or would have been part of the record. The base that we have to work from, limited as it is, simply would not exist.

All senators, especially those on the government side, should remember these events when we are in the future faced with other difficult decisions about our role and our responsibility, when we again have to choose between quick and easy compliance and rigorous, challenging and sometimes painful exercise of our constitutional duty to analyze, debate, listen and think.

I have reviewed the substance of the legislation carefully, again and again. I have come to accept and, indeed, approve of the rationale for the balance inherent in it that neither side, executive nor Senate, could act unilaterally other than for short term to replace the ethics officer. I also recognize that the Senate has not the power to appoint but the power to block the process by not producing its resolution required under the act. Ill-founded action by either the executive or the Senate in working within this fine balance would carry a high political price. That is the ultimate sanction and the ultimate hope for long-term success.

To bring these remarks to a conclusion, let me point to the obvious: If we pass this bill, everything that flows from it, the appointment process and the entire operation of the system, depends on rules that the Senate, and the Senate alone, can create. Make no mistake: The essential elements to enable and to require the Senate to fill its part of the proposed convention governing the appointment of the ethics officer must be in our rules, ironclad and crystal clear. That remains in our sole power, and a heavy weight rests on us to exercise that power well.

To achieve this will require much wisdom, goodwill and good management. This government must keep its promise, and future governments must follow what today can only be characterized as a potential convention. In time, it can become more. In turn, the Senate must do its part by creating a culture and practice through the careful development of our rules and then living by them.

Honourable senators, I cannot emphasize enough that we have no deadline to meet in drawing these rules and no pressure other than to do it right. All of this is far short of the certainty I would like to see. It is a path that shows promise if it works and guarantees political pain for future governments and institutional challenges for the Senate if it does not.

Looking carefully at the entire situation before us today, balancing aspirations with realities and hoping for wisdom and goodwill, I am prepared to vote for the passage of Bill C-4 without amendment.

**Hon. Senators:** Hear, hear!

**The Hon. the Speaker:** For clarification, I know that Senator Harb wanted to speak.

Senator Cools, were you going to put a question, or did you wish to speak?

**Senator Cools:** I want to ask a question.

**Hon. Gerry St. Germain:** Honourable senators, my question relates to what the honourable senator said, namely, that his decision has changed because the political landscape has changed

from November to now. In looking around this place, I see no change, of any great dimension. I have always been, and I will always be, a Conservative. I just had to effect something that was better for the country, namely, a viable opposition — something you people do not really want, and I do not blame you.

**Senator Austin:** We want you to be a viable opposition.

**Senator St. Germain:** I find it strange that the political landscape — and correct me if I am wrong — has changed our thought process on something that is so fundamental to this institution that we should be the masters of our own house instead of capitulating to a Prime Minister or a Governor in Council, or whatever. Regardless of the leader — Stephen Harper, Joe Clark, or whoever — I would not think you would find that acceptable, given that Senator Bryden has brought forward such a thoughtful and reasonable amendment.

**Senator Kroft:** Two things have changed my mind. First, there is the political landscape — which is highly relevant. When I voted in November, we all knew the circumstances. As I said in my speech, my thought and my hope was that, in the end, it would prove not to be an essential piece of legislation for the government and that, either with that government continuing or with a fresh government, there might be an opportunity for the introduction of the subject in a fresh way in Parliament. I would only send it back there if I felt there was a reason to expect we might get it back in better form. I no longer have that confidence.

More important, honourable senators, there is something more fundamental. Probably the most fundamental thing in my change of mind is that, after a great deal of study on the subject, I have come to the conclusion in the broad context for this institution — and this is not my narrow wish, if I could necessarily say what I would want to make a personal decision for me — and in the broad context socially, there is greater strength in the end in achieving some of the balance in the system that comes from the Senate playing a main role and the executive branch playing a role and both being able to either stalemate or make the case successfully.

When I look at both Senator Bryden's amendment and at my own thinking, back when I was so taken with the presentation of the late Lord Williams and his associate, I was then more persuaded with the idea of simply taking one of our own. We were quite general in whether it would be a clerk or a staff member or someone else. We would give that person whatever functions we wanted. Following down the line the British model, I was taken by that.

Over the months, however, as I have listened, studied, read and listened again — and thank God we have had more debate — I have become more persuaded that there is greater strength not only for the public and for Parliament but also for the Senate itself in the balance that is achieved in this situation if we are successful at that tricky act that we are trying to perform through the creation of a convention. That is really another way of saying that the creation of a convention in this case is a willingness to rely on good sense and goodwill.

• (2220)

**The Hon. the Speaker:** Senator Cools wanted to put a question but Senator Kroft's time has expired.

Senator Kroft is asking for more time. Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**Hon. Anne C. Cools:** I was listening to Senator Kroft with some care, particularly on the question of conventions. Not recently, but in my lifetime, I have done a fair amount of study on conventions. Frankly, just wishing to create a convention does not instantly create one.

My question for Senator Kroft has two prongs. Conventions are a political morality, so to speak, which guides governments to be ethical and true and faithful to the principles of parliamentary independence and ministerial responsibility. How can the government or anyone rely on a convention to overcome the principles of independence of government? Particularly, we can look at the clause in the bill that I call "the removal clause," which states that the Senate ethics officer may be removed for cause by the Governor in Council on address of the Senate.

I am asking Senator Kroft to clarify that there is no such thing as an address to the Governor in Council. An address is the mode by which either of the chambers speaks to Her Majesty the Queen. Most statutes say addresses to the governor or to the Queen. How can a convention be used to overcome such a fundamental notion as the independence of Parliament and the right of Her Majesty as a member of the Parliament to be petitioned by the form of an address? An address is a peculiar parliamentary instrument.

Honourable senators, the scripting of the removal clause does not dignify the Senate enough to even say the Governor General. It says the Governor in Council. It has not even disguised its intention. Could Senator Kroft help me comprehend this almost dialectical problem?

**Senator Kroft:** With respect, senator, your speech stands for itself.

**Hon. Mac Harb:** Honourable senators, this is, in a way, my first speech in this place.

I had a chance to make a statement to thank the former Prime Minister for making the excellent decision to appoint so many wonderfully talented men and women to this house. I had a chance to talk about one of the first projects that I will be introducing in the Senate in order to deal with the democratic deficit that our esteemed Prime Minister has been talking about; that is, to ensure that Canadians demographically, whether young or old, can collectively choose their elected officials, similar to the process that is found in Australia and around the world in over 30 countries.



The second chance I had to speak in this Senate was on a bill that was brought forward by the government to the Senate. I must admit, my remarks were typed up, neatly done and prepared. Therefore, I did not have to use my brain.

When I first was appointed, I was asked about what I thought about the difference between the Senate and the House of Commons. I had to reflect a bit. There is one thing: In the Senate, for the first time, I really had to use my brain. In the House of Commons, I did use it but I really did not have to. In my case, I had a government that was doing much of the thinking for me — an intelligent government, a government with a vision, a government with a fantastic agenda. To that extent, everything was like being on autopilot.

Suddenly, I come to the Senate and I see some of the fascinating proposals that are coming from the other House, such as the ethics bill. I see some of my intelligent colleagues here trying to block that bill. Suddenly, I am second-guessing things. Really, what is going on here? We have a lot of intelligence in this place. Why are we not letting this legislation go through, despite the tremendous amount of intelligence?

Senator Oliver spoke earlier about the importance of having an ethics package that reflected on and responded to public demand. I want to thank him because, when I was in opposition about 12 years, it was Senator Oliver, along with Speaker Milliken, who introduced the package to parliamentarians to respond to the whole notion of ethics issues. It took about 12 years before we saw something finally come forward before us as parliamentarians.

I want to say this to honourable senators. I have seen what the committee was working on. I am not comfortable with it for many reasons. We have had a chance to study the ethics package, and some feel it is not perfect in terms of the rules that govern parliamentarians.

Do you know what? We are not dealing with the ethics package or the rules or the regulations. We are dealing only with the establishment of the office of the ethics counsellor. That is it — nothing more, nothing less.

What is the problem? I cannot see why we will not let it go. Look around. Name one single person in this house who has not been appointed by the Prime Minister of this land. Each one of us is a creation of a prime minister, be it the present one or the former one.

Look at our officers in this house. The Speaker of the Senate is appointed. Our clerk and our government leader are appointed. Look at the other House. Look at our Governor General.

**Senator Kinsella:** She should be elected.

**Senator Harb:** All these are wonderful appointments. By and large, the vast majority of these appointees have served us well. No one in this house can tell me that the Auditor General of this land, who is an officer of Parliament, is biased. No one in

this house nor anywhere else can tell me that the Chief Electoral Officer, an officer of Parliament, is biased. No one can tell me that the Information Commissioner, an officer of Parliament, is biased. Each and every one of these individuals has served this country well.

Honourable senators, let us calm down. Let us look at the bill before us and let the legislation go through.

Senator Oliver said something extremely important: When we look at the echelons, the ranking in terms of public trust and confidence, politicians are at the bottom of the food chain. Frankly, honourable senators, if we do not let this legislation pass, we will be feeding into that frenzy. We have to let it go. When the time comes for us to select and establish the rules that govern, the rules that this ethics officer will have to use to do his or her job, then we can think things through and do the best possible job we can.

Between now and then, we have the possibility study a mechanism whereby we could ensure that we have a convention in place that is respected and carried from one government to the next.

• (2230)

I agree with Senator Oliver when he indicates that the present Leader of the Government in the Senate cannot oblige a future Leader of the Government in the Senate to follow through. I also agree with the notion of some of our colleagues, which has been mentioned in the past, that this government cannot dictate to future governments what they can do and compel them to consult. As long as it is not provided for in an act of Parliament, a future government is not compelled to do anything. That is a fact.

We all understand rules and procedures. The other house follows rules and procedures as does this house. When the Speakers of both Houses of Parliament rule on issues, they always look to and rely on precedents. If we can appoint individuals, then, of course, we can remove an individual. We can also ensure that there is a mechanism in the rules to trigger such an action in the event that the wishes of this Parliament are not taken into consideration when the appointment is made. I would suggest that the very capable lawyers in this house can come up with ideas and suggestions to ensure that this house is consulted.

Honourable senators, do not for a moment believe that it would be serving the public interest for us, as an unelected body of Parliament, to turn around and deny the peoples' representatives in the other house the passage of this bill. After all, they are the ones who will be going out to face the electorate. What do we expect them to do? Should they go out and defend us and say "The Senators are upset because we are not allowing them to appoint their own counsellors"? I do not think that will wash, honourable senators. If anything, we will turn public opinion against politicians of all stripes, not only against ourselves, but also those in the other house.

[ Senator Harb ]

I would suggest that some of us who are having difficulty with this bill should swallow their pride and let it go. Notwithstanding all of the difficulty we have, let it go, and bite on something more substantial when it comes to the rules governing this proposed ethics counsellor. We can then put our energy and intelligence towards developing rules with which everyone can live, rules that reflect the wishes of parliamentarians in this house. For us to do otherwise would, frankly, be undemocratic. We just do not have the right to block something that comes from the other house.

I must admit that, perhaps, the other house should have divided the bill into two. However, I am not here to second-guess what the other house is trying to do or not do. I am simply saying that it is an opportunity for us to show we are gentlemen and gentle ladies. Let this bill go through, and let us move on to the next piece of work.

**Senator Stratton:** You can turn it off again now.

**Senator St. Germain:** Honourable senators, I have a question for the senator who just spoke so eloquently. Is Senator Harb saying that we should not block anything that comes from the other place — that is what I understood him to say — regardless of whether it is right or wrong?

The honourable senator stands here and defends a bill based on the role of the ethics commissioner who operated in the other place, one Howard Wilson. He is prepared to stand here and expect us to swallow our pride. Does he realize what we will swallow all over Canada if we do this? We will hear a hue and outcry from the public that will resonate from the extreme east coast of Newfoundland and to the far extremes of British Columbia and as far south and north as you can go. Is the senator telling us that we should not block anything that comes from the other place and swallow our pride?

**Senator Kinsella:** Good question.

**Senator Harb:** Absolutely not, honourable senators. I started by saying this is a wise chamber. I said that this is the house of sober second thought. I also said, honourable senators, that we received a bill from the other place, that we had an opportunity to debate it and amend it. We made suggestions, and it was returned to the other house. The other house dealt with it with as much finesse and intelligence as possible and sent it back to us. We have to make a decision or a choice now.

Frankly, honourable senators, it is not a secret that we may end up going to the voters at some point in the near future. A parliamentarian going into the streets of Ottawa Centre campaigning, would use the fact that the Senate blocked a bill from the House of Commons as a single issue to attack the credibility of the Senate of Canada. That is certainly the one issue I would use if I were campaigning. To that extent, I would say yes,

we should let it go through; but, no, we should not swallow our pride. We will have time to deal with the legislation later.

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I am very interested to hear that a former Member of Parliament, who was in the other house for so many years, is now finally allowed to speak for himself, but having heard him, I wonder if perhaps he might want to reconsider that freedom.

My question to Senator Harb is: Will he be a better senator with the passage of this bill? What difference will it make in his life? Will he be more ethical, more loyal, more honest, more committed? What is the importance to him of this bill?

**Senator Harb:** Honourable senators, this is not only about me. This is about parliamentarians; this is about public cynicism; and this is about responding to public cynicism and dealing with issues of transparency. I agree with my colleagues. You cannot legislate ethics. You either have them, or you do not. I do not second-guess any of my colleagues. Each and every one of them has ethics and good morality.

We have here a bill that deals with the other house as well as with this one. We cannot pick and choose. We do not have the luxury at this point in time of saying, "I do not want this; I want that." At the end of day, we are all the same creatures of the same animal. We are all Order in Council appointments, each and every one of us. We were all appointed by the Prime Minister of the land.

To that extent, I would say to my colleagues, in answering whether this particular piece of legislation will make things better: maybe for some, maybe not for others. Is it needed? The answer is yes. Should it pass? Absolutely. Should we vote for it? Yes.

**Senator Lynch-Staunton:** Honourable senators, my question was simply, how will we be better parliamentarians with the passage of this bill? I can tell the honourable senator, quite frankly, that I am against the bill, but not because I am against ethics. I am against being offended by the fact that I have to be challenged in my integrity and honesty. If this bill had been law at the time that Brian Mulroney had asked me to become a senator, I would have had second thoughts before accepting. Never in public life have I been so challenged as this bill challenges me. It challenges me to divulge everything. It challenges my wife to divulge everything. For what purpose? Is it to titillate people? Is it to allow certain information to be leaked out?

**Senator Kinsella:** Voyeurism.

**Senator Lynch-Staunton:** Voyeurism, exactly. What else is being served by this bill, particularly given its authorship? After 10 years of milking the system, someone has said that we have to be pure. Senator Harb is part of that. I would ask him now: Should this bill pass, how will he be a better senator, and how will I be a better parliamentarian under its jurisdiction?



• (2240)

**Senator Harb:** Honourable senators, without exception, every Parliament in Canada and every democracy around the world has some sort of an oversight. I would want to suggest to my colleague that having an ethics counsellor does not necessarily mean taking away or second-guessing his integrity. It does not mean second-guessing his ethics or his morality. An ethics counsellor is a way of responding to the institution, to public demand, dealing with issues in a transparent way so that everyone understands what we are talking about, and setting rules to govern the way we do things. Maybe he, I and every other senator are okay at this time; however, there is one bad apple in every barrel, and we must ensure that that one bad apple does not cast a shadow on the integrity of other senators.

**The Hon. the Speaker:** I regret to advise that Senator Harb's time has expired.

The next speaker on my list is Senator Mercer.

**Senator Kinsella:** I move that Senator Sparrow be allowed to speak next.

**Hon. Terry M. Mercer:** Honourable senators, I should first like to thank Senator Harb for warming up the crowd.

**The Hon. the Speaker:** It is moved by the Honourable Senator Kinsella, seconded by the Honourable Senator LeBreton, that the next senator to be seen not be Senator Mercer but that it be Senator Sparrow.

Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** No.

**Some Hon. Senators:** Yes.

**The Hon. the Speaker:** Honourable senators, let me put the question as I should.

Would those honourable senators in favour of the motion please say "yea"?

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Would those honourable senators opposed to the motion please say "nay"?

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** I believe the "nays" have it.

Senator Mercer.

**Senator Mercer:** Honourable senators, as I said earlier, I should like to thank Senator Harb for setting up my speech tonight.

Honourable senators, public confidence in government is essential if we, as parliamentarians, are to ensure the validity of the political process. Ethics and integrity are at the core of public confidence in government. The institutions of government are required to set the highest objective standards in order to strengthen the support and respect of Parliament.

When I was asked to become a senator, one of first things I did in looking at legislation was to commit myself to support Bill C-4, and I still do.

Politics is about perception, honourable senators. People vote on perceptions, not necessarily on realities. If we vote against Bill C-4, we are voting against ethics and integrity — or at least that will be the perception. I realize that this is not what motivates some of you to oppose the bill, but that is what the Canadian public will perceive and that is what our opposition will tell them — our opposition to those of us in the Senate.

I submit, honourable senators, that this is an opportunity to clearly define the importance of this place in the eyes of those who would seek to destroy the very foundation on which it stands. Bill C-4 is not a measure intended to weaken this place. It is an opportunity to preserve the Senate's reputation for honesty in public service. I can think of no better reason to support the principles of this bill.

We need to develop a code of conduct; we need an independent officer to administer this code; and we need to restore the faith of the most important people in government — its citizens. Bill C-4 strives to fill all of these goals.

I am sure that opposition members in both places would savour the defeat of this important piece of proposed legislation. However, I would remind those member senators that the candidates in the upcoming election running for our party will be confronting the candidates running for other parties and asking one simple question: Why did you not support the ethics bill in the Senate? Quite frankly, honourable senators, you cannot talk the talk unless you are willing to walk the walk.

Elections are won or lost depending on how 308 candidates are perceived by the public. Voting in favour of this bill is an opportunity for each of us to send a message that government operates with the highest regard for ethics and integrity. Not to do so would be a disservice to the Senate, a disservice to the 308 candidates in the other place, and a disservice to Canadians.

**Senator St. Germain:** Honourable senators, I have a question for Senator Mercer. The honourable senator inferred in his speech that one can legislate ethics and integrity. He made mention of establishing a code of conduct and getting a commissioner, and extends this into the next election. I do not know what that has to do with this place. We are not elected. If we are doing it to hoodwink the public into believing we are doing something, that is totally wrong.

I have been in this place for 10 years; others have been here 20 years; and Senator Lawson has been here for more than 30 years. I do not see anything questionable in their integrity or their ethics.

I listened to the honourable senator's speech. I know he has been deeply involved in political organization, but does he honestly believe that we should be passing legislation for the sake of presenting to the Canadian public something that possibly does not really exist?

**Senator Mercer:** Honourable senators, I thank the honourable senator for the question. As I said in my speech, this is about perception. The perception in public today is — and it has been this way for a number of years — that people who participate in politics, whether in this place, in the other place, in provincial legislatures or in other democratic institutions across the country, are not ethical. I would contend that that is not the case. I do not know anyone in this place or the other place who is unethical. I am fortunate enough to know all honourable senators, and I am also fortunate to know a large percentage of the people in the other place. I believe everyone in the business is ethical, but the perception of some members of the public is otherwise. Our job is to tell the Canadian public that not only are we ethical but here are the standards by which we will be judged, if someone were to say that we are unethical.

As a professional, I have a code of conduct and ethical rules and practices that I have to follow, and have done so for all of my professional life. It is only right that this institution have the same.

**Senator St. Germain:** Honourable senators, we do have rules and regulations in this place. We have a code. We have the rules and regulations that we must live by.

**Senator Lynch-Staunton:** And the Criminal Code.

**Senator St. Germain:** The honourable senator talks about perception. In my eyes, and in the eyes of most Canadians, it will be deception, not perception.

Senator Austin at one time was opposed to the legislation. Now that he has taken on the role of Leader of the Government in the Senate, God bless his soul, he has to toe the party line.

Does the Honourable Senator Mercer actually believe that this will not be perceived as deception as opposed to the perception that he is trying to project?

**Senator Mercer:** Yes.

**The Hon. the Speaker:** I did not see Senator Sparrow earlier. I thought he was rising for a question — which is why I saw Senator Mercer.

Did you wish to speak, Senator Sparrow?

**Hon. Herbert O. Sparrow:** Honourable senators, no, thank you, but it is very kind to ask. I was going to ask a question, which was refused by this side of the chamber. I had hoped they would give me the opportunity to ask a question. Perhaps another time I will be able to ask a question.

**Senator Cools:** Honourable senators, I rise to support Senator Bryden's amendment.

• (2250)

Honourable senators, the first principle is that Parliament and its members are not to be subjugated or subordinated to the service of Crown, that is the King's ministers, counsellors or judges, for any reason whatsoever. From 1689 on, Parliament set out in practice and statute to banish office-holders and Crown servants from its bosom, both as its members and as its personnel. In Canada, these acts were called the independence of Parliament acts. Our own Parliament of Canada Act was created to do this. Its first planks were these several independence of Parliament acts. These acts form the Senate and House of Commons Act, the predecessor of the Parliament of Canada Act that Bill C-4 would amend. These acts banned office-holders and Crown servants from sitting and voting as members of Parliament. Until 1931, cabinet ministers had to resign as members of the House of Commons and seek re-election. Ministers, Crown servants and office-holders could not be members of the House of Commons without their constituents' agreement.

Honourable senators, the revolution and its settlement act, the *Bill of Rights* in 1689, laid out these constitutional notions that are the foundations of our Constitution, saying that the King used his Crown servants to subvert the liberty of the realm. It said that the King:

...by Assistance of divers evil Counsellors, Judges and Ministers employed by him, did endeavour to subvert...the Laws and Liberties of this Kingdom.

Parliament and its members are to be free from coercion by the Crown office-holders, in short, free from the pleasure or displeasure of the King, today the Prime Minister's Office. Our Constitution bans office-holders from Parliament except under severely proscribed conditions. The proscribed conditions are ministerial responsibility and also the terms and conditions of the appointment of Parliament's own officers.

Honourable senators, Bill C-4 is a corruption of the Parliament of Canada Act itself. It is contrived to defeat that act and to defeat constitutional law from 1689 as embodied in Canada by the British North America Act, 1867. Bill C-4 also contrives to defeat Parliament's own law, the Law of Parliament.

Honourable senators, I wish to speak to the Senate ethics officer, its tenure of office, its removal from office and its financial accountability.

First, financial accountability: Bill C-4, by clause 2, amending section 20 of the act, proposed sections 20.4(7) and 20.4(8), will place the determination of the Senate ethics officer's budget and financial actions beyond the reach of the Senate. This is most unparliamentary. The Senate will have no role, no administrative supervisory or constitutional role, in determining the budget of its own so-called ethics officer. This officer will be able to write a blank cheque. In fact, this Senate officer's budget process wilfully shuts out the Senate, unlike the budget process of the other Senate



officers. The other Senate officers' budget needs are proposed as part of the Senate's total budget, the total appropriation. The Senate's sole option on this officer's estimates would be an adverse vote and its political consequences. Such adverse votes are rare and in this instance would not be practicable. Therefore, this ethics officer, in practical terms, will have a blank cheque decided solely by the President of the Treasury Board and the officer. Bill C-4 contrives the finances of this officer to be beyond the reach of the Senate. This is objectionable, unusual and it is not Parliament's control of the public purse.

Honourable senators, I come to the very important matter of the appointment and tenure of this ethics officer. The Leader of the Government in the Senate, Senator Austin, has told us that the Senate ethics officer is exactly the same as the other Senate officers and that this new appointment is consistent with constitutional principles. In fact, on March 24 I put questions to him directly about the Senate ethics officer as compared to our one of our Senate officers, the chief one, the Clerk of the Senate. Senator Austin is quite wrong and I propose to show honourable senators how and why. I propose to show that this position is most unlike the other Senate officers and is a novel creation, totally novel. I will also show that it is more lucrative and powerful than the other Senate officers. It will be at the top of the heap. In fact, it is not a Senate officer at all but some new constitutional creature that I choose to call a parliamentary Godzilla.

Honourable senators, I shall compare the tenure of office, the salary and the terms of the appointment of this new Senate officer with the Clerk of the Senate. The Senate clerk is also the Clerk of the Parliaments, as the Clerk of the Commons is the Under-Clerk of the Parliaments. Further, the Senate Clerk is the chief of all the Senate officers and has charge of all the Senate staff and the day-to-day staff operations. He is also the custodian of our records and the endorser of our proceedings. Whereas the proposed new position has a tenure of seven years with a possibility for renewal and for removal from office by address of the Senate, our Senate clerk's tenure is during pleasure with no fixed term of appointment or renewal. Further, his removal from office is not by address at all, as Senator Austin wrongly said a few days ago. Our clerk's removal is at pleasure. He may be removed at a movement's notice without notice to him or this house. This new position is quite unlike that of our clerk.

On the question of rank and salary, our Senate clerk, unlike the proposed new position of ethics officer, does not have the rank of deputy minister. Neither does he have a deputy minister's salary. The Senate clerk's salary is lower than that of a deputy minister's salary. Further, our clerk's budget and financial needs are prepared and submitted to the Standing Committee on Internal Economy, Budgets and Administration and is processed and described as a part of the Senate's total budget, which is voted on and approved by this house prior to submission of the President of the Treasury Board, all quite unlike this new proposed Senate ethics officer.

Honourable senators, I come now to the all-important terms of the appointment of the Senate clerk. Parliament has no power to appoint its own officers. These office-holders are appointed by the

Queen using different royal instruments. The Queen is the enacting power that gives statutes to force of law. So too it is the Queen's commissioned power that gives appointments their legal force. Centuries ago, Parliament needed personnel with the legal force that only the King could give, but Parliament was hostile to office-holders. This is a thorny constitutional question. The power of the King was needed, but the personal control of the King through his servant was unwanted. Parliament needed officers who were legally viable to do its work, yet such legal viability, then as now, could only be found in the King's appointment, in the King's royal grant of power.

Parliament's need of legal power for its officers, its aversion to Crown servants, both needed to be satisfied. Both constitutional questions had to be resolved particularly in those days when house officers, our clerks, were sometimes also members of Parliament.

Honourable senators, this constitutional resolution was achieved in the 1700s by the modifications of the terms and conditions of the appointments of the House of Commons officers and their prescribed oaths. These officers' oaths of office are definite expressions of the law in which the King's intention in his letters patent and the duties of the house officer are both joined. Parliament for centuries has prescribed the oaths to be sworn by the great officers, who include the Clerks of the Senate and of the House of Commons.

Honourable senators, Senate records show this. Specifically, on March 15, 1994, Speakers Roméo LeBlanc informed us that Paul Bélisle had been appointed Clerk of the Senate and the Clerk of the Parliaments. On parliamentary usage, Speaker LeBlanc said:

Honourable senators, I have the honour to inform the Senate that, by the usage of Parliament, the Clerk of the Senate is required to take the oath of office before the Honourable the Speaker of the Senate.

The *Debates of the Senate* tells us that same day that "The oath of office was administered by His Honour the Speaker."

Honourable senators, our clerk's oath dates back to at least the 1700s. Its origin is not the oath of the U.K. Clerk of the House of Lords, but it is that of the U.K. Clerk of the House of Commons

• (2300)

The *Journals of the Senate* that same day reported Paul Bélisle's oath, that:

Ye shall be true and faithful, and troth ye shall bear to Our Sovereign Lady Queen Elizabeth the Second, ...

The Journals continued to the critical portion of the oath of the Clerk of the Senate:

Ye shall also well and truly serve Her Highness in the Office of Clerk of the Senate of Canada, to attend upon the Senate of Canada, making true entries and records of the things done and passed in the same.

Honourable senators, the Clerk of the Senate attends upon the Senate. This lengthy oath ended:

Ye shall well and truly do and execute all things belonging to you to be done appertaining to the Office of Clerk of the said Senate. As God you help.

Honourable senators, the Clerk of the Senate swore an oath of the great officers, which is a constitutional complement to his letters patent. His appointment is a grant of office, which grant is modified to meet Parliament's constitutional and representative role. The grant of office places a condition on the Senate clerk. That condition is to serve the Senate; that is, to "attend upon" the Senate. Our clerk is a Crown servant, but simultaneously he is a Crown servant who is pledged to be the servant of the Senate. Our Senate clerk is the Queen's grant of office. He is a royal gift to the Senate. This affirms the Senate's independence.

Honourable senators, the origin of the oath of the Clerk of the Senate is a constitutional accommodation between the King and the Commons. Our Senate clerk's oath is exactly the 1700s House of Commons clerk's oath in the U.K. The words are the same except that the "Senate of Canada" is substituted for "Commons." The words of the oath of the 1700s Commons clerk were:

Ye shall also well and truly serve His Highness, in the office of "Under Clerk of his Parliaments, to attend upon the Commons..."

The critical words are "attend upon," as distinct from "attend at" or simply "attend." The literature shows the distinction.

Honourable senators, in musing that the Senate clerk is prescribed to swear an ancient U.K. House of Commons clerk's oath, we must recall that by the Constitution Act, 1867, section 18, both the Senate and the House of Commons powers and privileges are those of the U.K. House of Commons. Our Senate clerk is a peculiar Canadian constitutional entity. He is styled the Clerk of the Parliaments after the U.K. House of Lords clerk, but his oath is an ancient U.K. House of Commons clerk's oath.

The Senate and the House of Commons clerks of Canada were constituted as gifts of the Crown to the Houses on the condition that they became the servants of the Houses. It is not accurate to say that this appointment of the Senate's ethics officer is the same as all other appointments and that it is the same as this one. Clearly, it is not the same. Clearly, the mode of appointment and the mode of the oath were developed over centuries to reflect the constitutional development of the institutions.

Honourable senators, that is why I am prepared to say that Senator Austin is wrong and that Senator Bryden is right. Senator Bryden's amendment to say "counsellor," rather than the creation of an unknown officer, is truer in fact to the constitution of the

Senate and to the notion of the independence of the Senate. I would support it because I believe that Senator Bryden's amendment is truer. Given that it is inherently true, it lends itself to the promotion and the support of ethical behaviour.

Honourable senators, there has been much talk about optics and appearance. I find myself dismayed when told that Bill C-4 is needed because it will form part of a communications package or part of a public relations package. That causes me a great deal of concern because for centuries we had distinct ways of obtaining ethical behaviour. One way, for example, was to uphold the notion of the oath of allegiance, which used to govern most ethical behaviour. This bill bothers me; and it bothers me that the concerns of the Senate have not been contemplated.

Honourable senators, there is no bill and there is no piece of legislation that could create one single ethical person. The question of ethics as a question of morality and the question of integrity, to my mind, are the cornerstones, if not the anchor stones, of public life. The methods by which we create and sponsor ethical behaviour are by being true to the institutions, to the principles, to the convictions and to our oath. If one were true, one would find that from truth alone a certain kind and quality of ethical behaviour would flow.

[Translation]

**Hon. Michel Biron:** Honourable senators, on behalf of the government, the Honourable Jack Austin, the Leader of the Government in the Senate, has officially given his commitment that the Prime Minister would consult the Senate before appointing an ethics counsellor. However, a subsequent Prime Minister could, if he so chose, decide not to honour that commitment. It might not be Christian or kosher, but it would be legal.

In practice, this commitment recognizes implicitly that the Senate was right to want to appoint its own ethics counsellor. If it was the government's firm intention to engage such a counsellor, present or future, why not include this in Bill C-4? Why has it not agreed to the Senate's majority amendment? Since the Prime Minister is in favour of the division of powers, a decentralized decision-making process and increased responsibilities for parliamentarians, why not take this unique opportunity to apply this principle and agree to the majority amendment adopted by the Senate? If it had done this, we would not be here today discussing it.

The problem with Senator Austin's commitment is that it does not bind subsequent governments and that is why I will support this amendment.

Senator Bryden's amendment in no way modifies or changes the way in which an ethics counsellor will be appointed to the House of Commons. It merely determines who will appoint the ethics counsellor to the Senate.



If, in selecting the ethics counsellor responsible for oversight of him, the ministers and members, the Prime Minister takes his inspiration from the Holy Spirit in making his choice, how can we, the senators here in this conclave, if I may so put it, not make a choice that is equally informed?

• (2310)

Contrary to what some senators might think, having an ethics counsellor chosen by consensus of the Senate rather than by someone at the other place only raises the bar of security for an ethics counsellor. The appointment of an ethics counsellor by the Prime Minister does not necessarily mean the latter will interfere. However, appointment by the Senate certainly ensures the independence of the counsellor and the Senate vis-à-vis the head of the government.

The Senate, I am convinced, clearly and firmly supports the government's efforts to have an ethics counsellor and an ethics code. Following the concerns expressed by Canadians, the government needs to implement clear rules of conduct respecting public ethics in the other place. At no time does the amendment affect this bill with respect to the other place. We must pay attention to public perception of the Senate. Some have a negative perception of the fact that we are appointed. Some even find that we are unnecessary. However, no one perceives senators as dishonest or lawless people. Others, on the contrary, recognize the need for and integrity of senators.

The amendment will not diminish this perception in any way. Perhaps it will emphasize that the need for a very clear code of conduct stems from the actions at the other place and does not result from bad governance in the Senate. The fact that we have put forward an amendment, whereby the consensus of the senators will be required for choosing an counsellor, raises the bar higher than if the Prime Minister alone made the choice. The public will perceive this action by the Senate as an improvement to this bill. It is up to us senators to make this happen.

A Father of Confederation and a reformer, George Brown, defended the usefulness of the upper chamber in these terms:

We wanted to make the upper chamber a perfectly independent body, an organization that would be in the best position to review objectively the measures of this House and to protect the public interest against any premature or partisan legislation.

If the Senate is appointed and not elected, it is to allow it to judge without being influenced by trends, partisanship and electoral considerations.

When I asked Senator Sparrow, "If my survey showed that those who support the amendment are in the minority, what would you do?", he immediately replied, "I will support the amendment, because it is a matter of principle."

I told myself: here is a senator who can stand up, a senator who is not influenced by electoral considerations, partisanship, fear, scaremongering or a concern that the public might misunderstand the amendment.

[ Senator Biron ]

I know that, with a few exceptions, senators who supported the amendment last fall will support it again, because there is nothing in Bill C-4 to make them change their mind.

Do what you have to do and justice will prevail. Honourable senators, what we are talking about are the principles of independence of the Senate and the rights of our institution.

With this amendment, we senators are showing that we care about ethics and that we are sensitive to this issue.

The professional qualifications and the integrity of the ethics counsellor will be thoroughly examined before any appointment by the two leaders in the Senate.

I cannot see how, after these discussions and once the decision is made, the leaders would revoke the appointment for trivial reasons.

In fact, Senator Bryden said that it would be impossible for the Senate to fire the ethics counsellor for frivolous reasons, because he would be appointed for a fixed term and his appointment could only be revoked with cause, with the consent of the leaders of the parties recognized in the Senate, and through a resolution.

The Fathers of Confederation wanted an independent upper chamber where senators could express themselves freely. They wanted a completely independent upper house.

Thus, I believe that from the time I accepted the appointment as a senator, and because I now am a part of this political body, the upper house, I feel obliged to protect its role and defend its rights. For these reasons, honourable senators, I shall vote in favour of the amendment.

On motion of Senator Rompkey, debate adjourned.

[English]

## CRIMINAL CODE

### BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

**Hon. Mobina S. B. Jaffer** moved second reading of Bill C-22, to amend the Criminal Code (cruelty to animals).

She said: Honourable senators, I am pleased to be able to speak to the provisions of Bill C-22. Senators will no doubt remember this legislation that was before us in the last session as Bill C-10, when it was combined with the amendments in relation to firearms, and then Bill C-10B when the two portions were split. What were the objectives of the bill?

[Translation]

The primary goal of the bill is to modernize and simplify the law by establishing clearly and concisely the legal criteria for the two major categories of offences: acts of wilful cruelty and acts of criminal negligence causing pain, suffering or injury to animals.

The legal criteria have not changed. In fact, the drafters have been careful to use the same language as the Criminal Code so that the legal questions of responsibility remain unchanged, while modernizing the act. Another purpose was to remove the distinctions that go back to another century and mean that the protection varies with the type of animal.

• (2320)

For example, in terms of certain existing provisions in the Criminal Code, the status of an animal as a chattel determines whether prosecutions will be successful or not, although the provisions fundamentally aim to protect animals against wilful cruelty and criminal negligence.

These distinctions are illogical and incompatible with the purpose of the law, as it has existed since 1953, namely, that all animals must be protected against pain, suffering and needless injury.

• (2320)

[English]

The second goal of the amendment is to increase the penalties for animal cruelty offences. The way society traditionally recognizes the seriousness of particular conduct is through the penalty that it prescribes for that conduct.

The current maximum penalty for animal cruelty, no matter how barbaric or heinous, is six months in prison. Canadians have been loud and clear that this penalty is simply too low. Bill C-22 will substantially raise the penalty for intentional cruelty by making the offence a hybrid offence, and by raising the maximum penalty for an indictable offence to five years, and for a summary conviction offence to 18 months.

This flexibility will permit the Crown to tailor the penalty to the circumstances of the particular case, and will signal to judges, prosecutors and the general public that cruelty offences are serious cases of violence.

In 1978, in the leading case of *Ménard*, Mr. Justice Lamer clarified the policy of the law and the essence of what is animal cruelty. The law recognizes that animals can be used for a variety of purposes to satisfy human needs, but also requires that animals should be treated humanely and subject to no more suffering than is necessary to achieve those purposes.

With respect to cruelty and the violence link —

[Translation]

Even greater societal interest would be served by the provisions of Bill C-22. There is increasing scientific evidence of a link between animal cruelty and subsequent violent offences against humans, particularly in the context of domestic violence.

Questionnaires administered to battered women in Canadian shelters indicated that 75 per cent of battered women who had pets reported that their aggressor had also injured or killed one or more of these pets.

Mistreatment of animals can have a devastating psychological impact on children forced to witness brutality toward animals they love.

[English]

Our judges, health professionals and law enforcement officers are beginning to recognize and address animal abuse as an aspect of a bigger problem of violence in our society. Bill C-22 provides Parliament with the opportunity to adopt legislation that recognizes the true nature of animal cruelty as a crime of violence.

These amendments represent the first major overhaul of cruelty to animal sections of the Criminal Code in over a century. Let me remind senators about some of the history of these amendments.

[Translation]

Parliament has had a bill to amend provisions on animal cruelty before it in one form or another since December 1999. First there was Bill C-17, an omnibus amendment of the Criminal Code, followed by Bill C-15, another omnibus bill that got divided in the other place, with the provisions on cruelty toward animals made into Bill C-15B.

These bills to amend died on the *Order Paper* and were reintroduced in October 2002 as part of Bill C-10, which contained amendments relating to firearms.

In November 2002, the two components were divided between bills C-10A and C-10B. The latter contained the provisions relating to animal cruelty. Bill C-10B died on the *Order Paper* in November 2003, and here it is back as Bill C-22.

[English]

In the year these amendments were before this chamber, there has been much unusual activity between this chamber and the other place. From December 2002 until May 2003, the Standing Senate Committee on Legal and Constitutional Affairs held comprehensive hearings into this legislation, hearing from many witnesses representing a range of interests.

In May 2003, this chamber approved four substantive changes to the legislation on the recommendation of our committee. The other place approved two of these amendments, making a modification to one of them. Honourable senators should know that these two amendments satisfied the last remaining concerns of animal industry organizations that had been opposing the legislation for several years.

The other place also did not agree with two amendments made by this chamber. The first one would have replaced the offence of killing an animal without lawful excuse with the offence of causing unnecessary death to an animal. The second would have created a defence for Aboriginal practices.



When the message from the other place returned to this chamber, honourable senators voted to send the message back to the committee. The Senate insisted on its outstanding amendments, and that message was communicated to the other place. The other place rejected the outstanding amendments a second time, sending a message back to this place. Honourable senators had just voted to refer the message back to the committee when Parliament prorogued last fall.

As honourable senators know, it is the practice of the other place that a bill may be reinstated within the first 21 days of the new session. Bill C-10B was reinstated in the House of Commons on March 1, 2004, as Bill C-22. The reinstatement procedure followed by the House of Commons does not allow any changes to be made to the form the bill was in prior to the prorogation of the last session. Consequently, Bill C-22 is identical to the old Bill C-10B, as agreed to by the other place, when the last session ended; and this includes the two Senate amendments that were accepted.

Honourable senators, I should like to talk for a moment about the support that exists for this legislation. The vast majority of Canadians overwhelmingly and loudly supports Bill C-22 and the previous versions of the bill. Over the course of the many years that animal cruelty amendments have been before Parliament, Canadians have consistently voiced their strong support for legislative change in this area. Many organizations and sectors are also extremely supportive, including law enforcement, animal welfare organizations, provincial attorney generals and the veterinary associations.

Many of the groups that are actively involved in the protection of animals and the prosecution of offences have spoken to the urgent need to pass this legislation so they can carry out their mandates more effectively. The Canadian Veterinary Medical Association, the Canadian Federation of Humane Societies and the International Fund for Animal Welfare have all expressed their support for the legislation without any further amendment.

Many thousands of Canadians have put pen to paper on this issue to let the government know that this legislation is important to them.

[Translation]

The honourable senators might like to know that livestock groups, like hunting associations, animal research groups and the agricultural industry, were for a time very concerned about the impact of this bill. The two standing committees sought out the viewpoints and concerns of these stakeholders.

Thanks to the excellent work done by our committee, amendments were made to the bill that were not perhaps necessary from a legal standpoint, but were intended to clarify matters of interest to Canadians without compromising protections to counter animal cruelty.

Two amendments moved by the Senate and agreed to by the other place responded to all the remaining concerns of these sectors of society and the industry in Canada.

Consequently, I want to state that livestock groups now support the bill in its current form.

[English]

Honourable senators, there is now an unprecedented level of agreement and support for Bill C-22 as it is before us today. The fact that both animal welfare and animal industry advocates are pressing for this legislation to be passed demonstrates convincingly that, in its current form, Bill C-22 represents an appropriate balance between protecting animals from unnecessary pain and ensuring that lawful and humane practices will not be subject to punishment. Those concerned about the welfare of animals, those whose livelihoods rely on animals and thousands of Canadians unaffiliated with these groups are all eager to see the bill pass without amendment.

• (2330)

Next are the amendments from the last session. Let me speak in more detail about the amendments that were made by this chamber in the last session. The first amendment was to limit the definition of "animal" by restricting it to "vertebrates other than human beings." The original definition in the legislation referred to vertebrates and also animals other than vertebrates that had the capacity to feel pain. It was intended to bring clarity into the law and also maximum respect of animals that are not invertebrates. Many animal industry groups worried about the reach of the law requested in this amendment. The amendment made by this chamber limited the definition to vertebrates and opted to prioritize certainty or flexibility in the law. If science evolves in the future, the law can be amended in the future. While this was not the choice that the government made when it drafted the legislation, the government did not oppose the amendment in the other place.

The second amendment made by this chamber went a long way toward bringing animal industry groups to support the legislation. This amendment made explicit reference to defences in subsection 429(2) of the Criminal Code, namely, the defences of legal justification, excuse and colour of right. This amendment replaced an express reference to subsection 8.3 of the Criminal Code that preserves all the common law defences. That section was added by the Justice and Human Rights Committee of the other place during its study of the former version of the bill. Although the government believed that the defences contained in subsection 429(2) were still available even without the amendment, it was understood that certain sectors of the population were concerned about them. In the House of Commons, the government did not object to the spirit of the amendment but did change the wording in order to eliminate an unconstitutional reverse onus. Again, the hard work of both this chamber and our committee was much appreciated by Canadians.

[ Senator Jaffer ]

Honourable senators, last session two other amendments that this chamber passed need to be addressed by our committee. The last amendment that will again need to be studied by committee created a defence for Aboriginal persons engaged in traditional practices protected under section 35 of the Constitution.

One more issue caused some concern in the last session, namely, the issue of ritual slaughter for religious communities and the concern that something in this bill would put that practice at risk. This is not the case. Federal law explicitly authorizes ritual slaughter in federally regulated slaughterhouses. Section 77 of the Meat Inspection Regulations actually sets out how ritual slaughter is to be carried out. That regulation is a clear statement of government policy that ritual slaughter is lawful. That statement must be understood as carving out an area of lawful conduct in relation to the offence of cruelty. If the government authorizes ritual slaughter in one statute, it cannot logically prohibit it in another. If it wanted to do so, it would take very clear and precise language. Even so, ritual slaughter must cause immediate loss of consciousness. This prevents the animal from feeling any pain. It is a humane method of slaughter by law.

Ritual slaughter is, therefore, not cruel; it is exactly the opposite. It is fully in compliance with animal cruelty laws. There is nothing explicit in the current laws on animal cruelty and yet it is still lawful. Nothing in Bill C-22 turns ritual slaughter from legal to illegal activity or otherwise changes the legal standard that applies. There is no validity to this concern.

To the degree that the concern relates to animal rights groups or others starting private prosecutions against religious communities, honourable senators should know there are many safeguards against vexatious or unwarranted private prosecutions in the Criminal Code, including new ones that make prosecutions even more difficult than they were just a few years ago. In every private prosecution, there is an opportunity for a court to examine the case and decide whether it has merit, and the Attorney General has the right to intervene and put a halt to it. All of this will happen before the accused person is ever summoned to court, before there is any cost or publicity. There is simply no reason to worry about private prosecutions getting out of control.

In conclusion, honourable senators, those are the main issues raised by this legislation in the previous session. I am sure that these issues will get a full airing when the bill is referred to committee. This legislation is as important today as it was in 1999, when first introduced in Parliament. In recent weeks, our newspapers have reported cases of dog poisoning in Toronto and a mutilated kitten in Montreal. It is time for Parliament to stand up and declare this kind of behaviour to be completely unacceptable. It is time for Parliament to demonstrate that we share the concern of Canadians that animals deserve to be protected from needless cruelty. This is what the overwhelming majority of population is expecting of us.

Thank you, honourable senators, for your attention today.

**Hon. Anne C. Cools:** Honourable senators, could Senator Jaffer enlighten me on this business of this particular bill being reinstated? This bill, Bill C-10B, did not originate in the House of Commons, so I am having difficulty grasping how it could be reinstated. The honourable senator will recall that Bill C-10 was divided here in the Senate. At that time I had a number of concerns that the division was not executed properly and that it had created two new bills. The honourable senator will remember that the motions all referred to two new bills, complete with new bill numbers. Therefore, could Senator Jaffer answer my question?

In addition to that answer, could the honourable senator respond to a related question that, for me, was a thorny one? In response to the Senate dividing the bill into Bill C-10A and Bill C-10B, she will recall that the House of Commons, in their motion to accept the message on Bill C-10A, had a lot to say about the Senate breaching House of Commons privileges in respect of creating the two bills. Perhaps the honourable senator could explain this reinstatement to me and how this reinstatement can then just wash away the House of Commons motion criticizing the Senate for its actions.

Honourable senators, this is a troublesome question. If we live here, we live close to the Ottawa River. If someone is drowning in the Ottawa River and we can go and rescue them. However, if they are in the St. Lawrence, we cannot rescue them. I fail to understand how the House of Commons can keep reinstating that which is not theirs and reinstating that which is not before them.

Honourable senators, I question this entire reinstatement process. As I said before, it is unconstitutional and improper. The major problem — and Mr. Martin has articulated it as the democratic deficit — is that all the constitutional rules and systems are being ignored. I, for one, want to know how this bill can be before us, claiming to be reinstated in these circumstances. It is a fraud.

**Senator Jaffer:** Honourable senators, the issues that the honourable senator has raised were eloquently addressed during our debate on this bill. As I pointed out today, the House has the option of reinstating a bill, which it has done, within 21 days of opening the session. The bill which is back before us. We will have an opportunity to debate all the issues that the senator has raised in committee and report the bill before third reading.

On motion of Senator Stratton, debate adjourned.

• (2340)

[Translation]

## CUSTOMS TARIFF

BILL TO AMEND SECOND READING  
DEBATE ADJOURNED

**Hon. Pierre De Bané** moved the second reading of Bill C-21, to amend the Customs Tariff.

He said: Honourable senators, I have the honour of presenting Bill C-21, amending the Customs Tariff, which will be examined in second reading today.



This bill would extend the general preferential tariff or GPT and the least developed country tariff or LDCT for 10 years, that is, until June 30, 2014. The GPT and LDCT are preferential tariff programs through which Canada provides assistance to developing countries and the least developed countries.

These two programs are part of the customs tariff and are subject to a sunset clause, such that they will expire on June 30, 2004. For decades, these programs have been unilaterally providing preferential tariffs on imports originating in beneficiary countries, so as to stimulate exports and economic growth in these countries.

[English]

During the mid-1960s, as honourable senators will recall, there was a growing recognition that preferential tariff treatment for developing countries was a means of fostering growth and the well-being of poorer nations. Following a recommendation of the United Nations Conference on Trade and Development in 1968, most developed countries implemented unilateral non-discriminatory tariff preferences for goods from developing countries.

This generalized system of tariff preferences was intended to assist developing countries to increase their export earnings and to stimulate their economic growth. The system was introduced under the framework of the General Agreement on Tariffs and Trade, GATT, the predecessor to the World Trade Organization. Members of the GATT agreed that developed countries would be permitted to award more favourable treatment to products imported from developing countries than to similar products from developed countries. It was also agreed that the preferential tariff would be non-discriminatory and non-reciprocal.

It is under this program that Canada introduced the GPT on July 1, 1974, for an initial period of 10 years. The GPT has been renewed twice since then, in 1984 and 1994.

Canada subsequently introduced the LDCT in 1983 in the context of an international effort to provide even more generous preferential tariff treatment to goods from the world's least-developed countries. The LDCT has also been renewed since then.

As I indicated, both programs are now set to expire on June 30, 2004. The objective of the bill before the house is to continue these important tariff programs beyond that date for a further 10 years.

I would like now to take a moment to review some of the essential features of these programs.

[Translation]

Under the GPT, more than 180 countries and territories are entitled to zero or low tariffs on a large variety of products that are covered under the customs tariff.

The main goods not covered by the GPT are agricultural products that are subject to the supply management system,

including eggs, dairy products, poultry, refined sugar and most textiles, clothing and footwear.

Three-quarters of the goods covered by the GPT can be imported to Canada duty free. The other goods are subject to duties that are lower than the regular MFN rate. Like other programs put in place by other industrialized countries, the Canadian GPT is a unilateral program, which means that the Canadian government can make changes at any time to the various GPT elements.

It may be of interest to know that, in 2003, the primary beneficiary of the GPT was China, which provided 60 per cent of the imports covered by this tariff. That country was followed by South Korea, Thailand, Brazil and India.

As for the LDCT, it is granted to 48 of the poorest countries in the world, according to the UN definition, which is based on various criteria such as national income, health and education.

Since January 2003, the government has followed up on a commitment made in 2002 at the G-8 summit in Kananaskis and all imports from LDCT countries are now duty free, with the exception of a few agricultural items such as dairy products, poultry and eggs.

[English]

Honourable senators, the reasons that justify the introduction of the GPT and the LDCT decades ago still remain. There are still many countries in the world with low per-capita income levels. We were reminded again of this fact in a recent report by the United Nations Commission on the Private Sector and Development, co-chaired by Prime Minister Paul Martin. The report highlighted that despite progress over the last 50 years, 4 billion people live today on less than U.S. \$5 per day in the developing world. Of those, 1.2 billion people live on less than U.S. \$1 per day. Hence, the promise that originally led to the establishment of preferential tariff programs — that they would encourage an increase in exports that stimulates economic growth and helps reduce poverty in the developing world — still holds today. While many studies have pointed out that preferential tariff programs have supported economic growth in many poorer countries, they still see preferential access to the markets of the developed world as an important instrument to help them improve their development prospects.

Therefore, extending the GPT and LDCT for another 10 years reaffirms the government's commitment to promoting the export capability and economic growth of developing and least-developed countries. Furthermore, improved market opportunities are themselves important to attract much-needed investment in the developing world.

Continuing these two long-standing preferential tariff programs will send a positive message to beneficiary countries that Canada continues to see these programs as an important tool for economic growth in developing and least-developed countries.

[Senator De Bané]

As well, honourable senators, an extension would be consistent with Canada's international commitments to help stimulate economic growth and reduce poverty in the developing world. These commitments have been reiterated on many occasions by Canada in such forums as the G8 and the World Trade Organization. By extending these programs we will continue Canada's tradition of assisting the developing world. Moreover, the evidence gathered in many studies, as well as the example of certain countries and regions such as Southeast Asia, supports the principle that export expansion contributes to general economic growth.

• (2350)

Finally, by extending the GPD and LDCT, Canada will be joining other developed countries in their efforts to assist poorer nations. In this regard, it is important to remind ourselves that all major industrialized countries, without any exception, provide preferential access for the developing world, and some of them, including the United States, Japan, and members of the European Union have recently extended their programs.

[Translation]

It is important to point out that the advantages associated with the GPT and the LDCT are not limited to developing countries and the least developed countries. It is true that these two programs were initially designed as an economic measure for developing countries, but they also present advantages for many Canadians.

In 2003, Canadian imports subject to the GPT and LDCT were worth an estimated \$9.7 billion. If these programs had not existed, Canadian importers and consumers would have had to pay additional customs duties of roughly \$273 million. It is obvious that Canadian consumers benefit directly from these programs. Because customs duties applicable to goods from developing countries are lower, Canadians can purchase imported goods at competitive prices.

Canadian producers benefit from the reduced duties on the inputs they import from developing countries, which they use to produce goods in Canada. These reduced tariffs on inputs help increase productivity for these producers. Thus, these tariff programs contribute to the economic development of beneficiary countries and also present advantages for Canadians.

[English]

Before closing, I should like to quote from the eloquent speech made by the United Nations Secretary-General Kofi Annan before our Parliament, invited by the Right Honourable Prime Minister, on March 9. In making reference to the importance of the goals of the 2000 Millennium Declaration, a joint statement of our ambitions for humanity in the new century, he said:

Reaching the millennium development goals will require a true global partnership in which all developed countries

play their parts through increased and more effective official development aid, investment, advice, and policies that ensure a just global trading system.

He went on to add:

...we must make certain that poor countries have a chance at development and that they can benefit from globalization....

Developing countries should be given the chance to trade away their poverty...

His comments reflect the underlying principles behind the GPT and LDCT programs, the extension of which is the focus of Bill C-21, introduced by our government. They also highlight the importance of encouraging economic growth in the developing world, including through expanded trade, as part of achieving coherence between trade and development policy, an approach that Canada fully supports.

Many of my colleagues in this house have been contributing to improve this two-way trade between Canada and many countries of the world. I shall not name names, but many colleagues have been very active in doing that. When countries trade together, a solid foundation for better relations between them is built.

Honourable senators, as I highlighted earlier in my remarks, the economies of many developing and least developed countries still have to make great strides if their people are to attain acceptable income levels, as evidenced by the fact that one fifth of the world population lives on less than U.S. \$1 a day. This bill constitutes one substantive measure Canada can take to assist the developing world in achieving the goals of poverty reduction. I strongly urge honourable senators to support the bill and reaffirm Canada's continued commitment to supporting economic growth in the developing world. As a member of the international community of nations, Canada must continue to take an active role in advancing international economic developing efforts. This bill is of direct benefit to the people of the developing world, whose livelihoods are partly dependent on the performance of the often-limited export sectors of their economies.

If any of my honourable colleagues still have questions about extending the GPT and the LDCT, let me simply say this: Both of these programs have been in place for decades as part of Canada's commitment to providing more open markets for and reducing poverty in the world's poor countries, a commitment the government reiterated on many occasions in international forums such as the G8, the United Nations and the World Trade Organizations. I am very proud that, in the other house, all parties supported Bill C-21.

Let me remind honourable senators that Canada stands with all other major industrialized nations, including the United States, Japan and members of the European Union, in supporting the developing worlds through preferential tariff programs. As I indicated earlier, the advantages to extending the GPT and LDCT for an additional 10 years are many.



First, Canada will continue a long-standing international practice of providing preferential tariff treatment to goods from the world's poorer nations in order to support their economic growth and help reduce poverty.

Second, Canada's continued program for a fixed period of 10 years will provide certainty and predictability to traders who use them in Canada and in the developing and least developed countries.

Third, continuing these two programs will complement Canada's foreign aid policies by continuing to provide a balanced approach where it is recognized that sustainable poverty reduction requires measures such as preferential market access through tariff programs such as the GPT and LDCT to stimulate economic growth.

Finally, while these programs were mostly conceived as economic assistance measures to developing and least developed countries, they also benefit domestic importers of inputs and consumers of finished products by providing them with goods that are subject to lower rates of duty.

Quite simply, a 10-year extension of the GPT and LDCT would be consistent with past practice, provide a predictable and beneficial business environment to users of the programs and reaffirm a long-term commitment by the government to international development.

I urge all honourable senators to support this bill in order to allow for the continuation of important Canadian measures that support economic growth and poverty reduction in the developing world. Canada will continue to be an inspiration for the developed countries to pursue those measures that not only will improve the living conditions of the poorer countries but also will enhance world peace.

On motion of Senator Kinsella, debate adjourned.

• (2400)

**The Hon. the Speaker:** Honourable senators, it being twelve o'clock midnight, pursuant to rule 6(1), I declare that the motion to adjourn the Senate has been deemed to have been moved and adopted.

The Senate adjourned until tomorrow at 2 p.m.

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CANADA

# Debates of the Senate

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OFFICIAL REPORT  
(HANSARD)

**Tuesday, March 30, 2004**

—  
THE HONOURABLE DAN HAYS  
SPEAKER





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(Daily index of proceedings appears at back of this issue).

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## THE SENATE

Tuesday, March 30, 2004

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers

[Translation]

### SENATORS' STATEMENTS

THE HONOURABLE GÉRALD-A. BEAUDOIN, O.C., Q.C.  
THE HONOURABLE DOUGLAS ROCHE, O.C.

#### TRIBUTES ON RETIREMENT

**Hon. Madeleine Plamondon:** Honourable senators, I rise to pay tribute to two senators who will soon be leaving the Senate of Canada, Senator Beaudoin and Senator Roche.

Senator Beaudoin, I will not go over your extraordinary career eloquently described in the tributes yesterday by my colleagues, who have known you longer than I. Nevertheless, even though I have only been in the Senate for six months, I would be remiss not to express my admiration for you. Whenever you speak, everyone pays attention, especially when the topic is constitutional affairs. Your explanations are clear, impartial and worthy of respect.

I would have liked to have known you longer and to have had discussions on the fragile balance between collective rights and individual rights.

I will remember you as a welcoming, cheerful and conscientious man. Let us hope that the Senate calls upon your expertise and your credibility when it comes time to draft a code of ethics for senators.

[English]

Not only was Senator Roche my next-door neighbour when I came to the Senate but also my neighbour here in the Senate. Senator Roche, the first thing that struck me about you was your profound engagement for peace. For you, the prayer "so that we may serve ever better the cause of peace," which honourable senators recite before each sitting, is more than a formality. It reflects a faith that nourishes your everyday life. You think about peace, you write about peace, and your speeches in and out of the Senate are about peace. You reach everyone. Even a taxi driver on my way to the train station referred to you as the best spokesman for peace. He had read your books, including the last, *Bread Not Bombs*. You are a man of integrity, whose vote is always the result of reflection, tolerance and justice. I will miss you, Senator Roche.

### UNIVERSITY HOCKEY CHAMPIONS

CONGRATULATIONS TO ST. FRANCIS XAVIER X-MEN

**Hon. B. Alasdair Graham:** Honourable senators will remember at last week I paid tribute to the Carleton University Ravens for their exciting victory over the St. Francis Xavier University

X-Men in the Canadian National University Basketball Championship. I am sure I will be forgiven if I return to the intercollegiate athletic scene today to congratulate the St. F.X. hockey team's thrilling 3-2 second overtime sudden-death triumph over the tough New Brunswick Varsity Reds last Sunday night. The win gave the X-Men their first ever Canadian university hockey championship. For anyone lucky enough to watch, it was a heart-stopper all the way and another tremendous triumph for the university athletic organizers, most especially to volunteers in Fredericton, and most particularly to the representatives of the host committee at the University of New Brunswick.

Once again, our congratulations go out to St. FX Head Coach Danny Flynn and all of his players, to the silver-winning University of New Brunswick Varsity Reds and to the bronze medallist Dalhousie Tigers. Credit is also due to all participating teams, from the number-one ranked University of Alberta Golden Bears, the University of Ottawa Gee-Gees and the York University Lions.

As a life-long devotee of university athletics, I have often thought about the spirit of excellence that drives all the wonderful people who dedicate themselves to teaching and coaching our young people to fly higher; to set their sights on a dream; to skate faster and stronger; to reject mediocrity; to understand that the real contest is always between what you have done and what you are capable of doing; to always do a little more than one thinks is possible; to do that little bit more to reach beyond your finger tips; and to sacrifice, train and love the sport for the sake of the sport. Those wonderful people are dedicated to the simplest but most beautiful words in the language: swifter, higher, stronger *citius, altius, fortius* — the motto of the Olympic Games and of fine athletes everywhere.

### FOREIGN AFFAIRS

#### MIDDLE EAST – ESCALATION OF VIOLENCE GOVERNMENT POSITION

**Hon. David Tkachuk:** Honourable senators, my remarks are in response to the recent escalation of violence in the State of Israel. My comments concern the death of Sheik Ahmed Yassin from the Hamas terrorist organization, whose mandate is to "reclaim Arab land from river to sea." Geographically, this means capturing the land between the Jordan River in northeast Israel, all the way across the State of Israel to the Mediterranean Sea, which borders the west side of Israel.

In response to the news of Mr. Yassin's death, Canadian Foreign Affairs Minister Bill Graham said that he deplored the assassination. In the March 24 edition of the *Calgary Herald* he called it, "contrary to Israel's legal obligations." At the same time, Prime Minister Paul Martin was quoted as saying:



The Israelis have every right and responsibility to defend themselves and that is what happened —

referring to the death of Sheik Ahmed Yassin —

— but at the same time, one has to ask whether this is conducive to the peace process and I think this is where the judgment is going to have to be made.

Who does the Prime Minister believe will make a judgment on this situation?

What is of great concern to me is that we are starting to see a pattern of equivocation emerge. I fail to see how an equivocating position is good for Canadians as we witness the escalation of violence and the mounting death toll on both sides of the war. When one of Canada's ministers suggests that Israel behaved contrary to its obligations, I suggest this government is getting closer to condoning terrorist actions. When our media repeatedly defines Sheik Yassin as a spiritual leader, I disagree. I suggest that this bolsters terrorism itself. The "spiritualism" of Yassin would be considered a blasphemy by the Christian standards that I uphold, and I would suggest that the faith and values of Canada's other religions would not condone acts of extermination, something that Yassin's organization, the Hamas, holds as its mandate.

• (1410)

In the news on Sunday, the new Hamas leader, Dr. Abdel Aziz Rantisi, called President Bush an enemy of all Muslims and said that God has declared war on the United States. To borrow Minister Graham's sentiment, I deplore this kind of hate-mongering, not only in our press but also in our world. I would be interested to hear our Prime Minister's comments on that.

Honourable senators, I know how many have asked these questions, but I want to add my voice to the chorus: Who started these forms of terrorist violence? How long until we declare terrorism unacceptable? This war between Israelis and Palestinians is not merely a battle over land; it is a war between the future of civil society and a future without one.

On Thursday, March 25, the United States vetoed a Security Council resolution that condemned Israel for killing the Hamas leader, Sheikh Yassin. While the UN clearly condemned the actions of Israel with regard to Yassin, it also clearly condones the continued terrorist actions and past actions by the Hamas since these actions were not addressed in the resolution. Some countries in favour of the resolution included China, France, Russia and Pakistan, while Britain, Germany and Romania abstained.

Honourable senators, in closing I agree with Prime Minister Martin in that on one hand, Israel does have a right to defend its sovereignty. It is unfortunate that Mr. Martin is not sure whether he believes it himself.

[ Senator Tkachuk ]

## THE HONOURABLE B. ALASDAIR GRAHAM

### TRIBUTE ON RETIREMENT

**Hon. Norman K. Atkins:** Honourable senators, I, too, would like to congratulate St. Francis Xavier on a victory over the University of New Brunswick last weekend.

Last week, I was unable to participate in the tributes to my friend, Senator Alasdair Graham, as I was travelling with the Standing Senate Committee on National Security and Defence. However, I would like to take this opportunity to add to those tributes.

There are certain qualities about a person who serves his community, province and country that apply to Senator Graham. They are friendship, principle, loyalty and commitment. These are characteristics that I highly value.

Senator Graham has been in public life most of his life. He epitomizes, indeed sets a standard, of what a caring Canadian does. He is a sensitive, compassionate and dedicated person of high principle. He is committed to serving his country, community and party, while preserving personal relationships that extend to his friends, understanding that their commitment is important as well. I cannot think of a time when Senator Graham has been asked to serve that he has not accepted the challenge, regardless of how difficult that task might be.

Senator Graham's retirement from the Senate is the end of a spectacular political career but certainly not the end of his work. His level of energy will serve him well in his other endeavours, be it charitable work for St. Francis Xavier University or challenges in his community, the country or even internationally. He certainly will be able to continue his hockey career in earnest and will hopefully find time to continue his legendary long skates on the Rideau Canal.

Alasdair is a proud and dedicated family man whose children and grandchildren have had the benefit of his guidance and understanding. They will now have the advantage of more of his time.

To Alasdair and his family, I wish you all the best — the best of health and continued happiness for many years.

## ROUTINE PROCEEDINGS

### SENATE DELEGATION TO UNITED KINGDOM

#### REPORT TABLED

**Hon. Dan Hays:** Honourable senators, I request leave to table a report reflecting the work of a delegation led by me, with Senators Graham and Atkins as members, to the United Kingdom, in particular, to the House of Lords.

**The Hon. the Speaker *pro tempore*:** Is leave granted?

**Hon. Senators:** Agreed.

**SENATE DELEGATION TO SLOVENIA****REPORT TABLED**

**Hon. Dan Hays:** Honourable senators, I request leave to table the report prepared following a visit to Slovenia led by me, with Senators Kenny and Robertson as members, that reflects the work of the delegation in Slovenia.

**The Hon. the Speaker *pro tempore*:** Is leave granted?

**Hon. Senators:** Agreed.

**SENATE DELEGATION TO GERMANY****REPORT TABLED**

**Hon. Dan Hays:** Honourable senators, I request leave to table a report relating to the work done by a delegation led by me, with Senators Kenny and Robertson as members, on a visit to Germany, in particular to the Bundesrat of that country.

**The Hon. the Speaker *pro tempore*:** Is leave granted?

**Hon. Senators:** Agreed.

**AUDITOR GENERAL****REPORT TABLED**

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, I have the honour to table, in both official languages, the report of the Auditor General of Canada to the House of Commons dated March 2004.

**APPROPRIATION BILL NO. 1, 2004-05****REPORT OF COMMITTEE**

**Hon. Lowell Murray,** Chairman of the Standing Senate Committee on National Finance, presented the following report:

Tuesday, March 30, 2004

The Standing Senate Committee on National Finance has the honour to present its

**SEVENTH REPORT**

Your Committee, to which was referred Bill C-27, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005, has, in obedience to the Order of Reference of Thursday, March 25, 2004, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LOWELL MURRAY  
*Chairman*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Day, with leave of the Senate and notwithstanding rule 58(1)(b), bill placed on the Orders of the Day for consideration later this day.

**STUDY ON NEED FOR NATIONAL SECURITY POLICY****REPORT OF NATIONAL SECURITY  
AND DEFENCE COMMITTEE TABLED**

**Hon. Colin Kenny:** Honourable senators, I have the honour to table the third report of the Standing Senate Committee on National Security and Defence, which deals with national security policy in Canada.

I ask that it be placed on the Orders of the Day for consideration at the next sitting of the Senate.

**The Hon. The Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Kenny, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

**BUSINESS OF THE SENATE****ADJOURNMENT MOTION ADOPTED**

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(i), I move:

That, notwithstanding the Order adopted by the Senate on February 23, 2004, when the Senate sits tomorrow, Wednesday, March 31, 2004, it do adjourn after the proceedings on Royal Assent are completed;

That should a vote be deferred later today until 5:30 p.m. tomorrow, the vote will take place immediately after Royal Assent, following a fifteen minute bell, after which the Senate will adjourn.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

Motion agreed to.

• (1420)

**ADVANCEMENT OF VISIBLE MINORITIES  
IN PUBLIC SERVICE****NOTICE OF INQUIRY**

**Hon. Donald H. Oliver:** Honourable senators, I give notice that pursuant to rule 57.2, on Thursday, April 1, 2004:

I will call the attention of the Senate to the barriers facing the advancement of visible minorities in the Public Service of Canada.



## QUESTION PERIOD

### TRANSPORT

#### UNITED STATES—AIRLINES PASSENGER PRE-SCREENING SYSTEM

**Hon. A. Raynell Andreychuk:** Honourable senators, Canadians who board flights in the United States may soon have to provide their personal information to a new computer-based screening program, including their home address and travel itinerary, and perhaps date of birth and address. The information will be fed into databases that will verify a person's identity against public records and commercial computer banks such as shopping lists.

The U.S. government has said that this new system — known as Computer Assisted Passenger Pre-screening System, or CAPPS II — will then assign each passenger a number and colour code based on his or her level of potential security risk.

The European Union has announced that it objects to its citizens having to provide their personal data on the grounds of privacy concerns.

My question is for the Leader of the Government in the Senate. Does the federal government have any concerns over the issues of privacy and discrimination that are raised by the use of such a system? If so, have we communicated our concerns to the United States and, if so, how have we done that?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I will take the question as notice.

**Senator Andreychuk:** As the honourable senator is taking notice, I should also like to know whether the Canadian government will provide this information while it would appear that commercial airlines and American citizens, voicing their concerns through Congress, have yet to allow the CAPPS II system to go ahead. In other words, will we provide the information when Americans are not providing the information?

**Senator Austin:** I will look into the matter and, hopefully, report soon.

### SOLICITOR GENERAL

#### AUDITOR GENERAL'S REPORT— CANADIAN SECURITY INTELLIGENCE SERVICE—INTEGRATED NATIONAL SECURITY ASSESSMENT CENTRE—INVOLVEMENT OF AGENCIES

**Hon. Michael A. Meighen:** Honourable senators, in her latest report, the Auditor General stated that, in the critical and ongoing fight against terrorism, coordinating the efforts of the agencies involved is absolutely vital to their overall effectiveness. She also noted that, in this effort, last year CSIS created the Integrated National Security Assessment Centre, or INSAC. Yet, of the 10 agencies invited to send a representative to that centre, four declined to do so. These included the Department of Foreign Affairs, Citizenship and Immigration, the Solicitor General and the Privy Council Office. The Auditor General herself concluded that the centre will be less effective if these organizations do not participate.

Can the Leader of the Government in the Senate tell us what, if anything, is being done to ensure that these government agencies and departments participate in the centre? If, perish the thought, nothing is being done, why not?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, the tabling of the Auditor General's report took place at 2 p.m. today. I congratulate Senator Meighen for the information he has with respect to the contents of that report. Unfortunately, I have not had a chance to be briefed and cannot respond at this time.

**Senator Meighen:** Honourable senators, since INSAC was created early in 2003, surely that might have given the Leader of the Government in the Senate enough time to ascertain why four agencies declined to participate.

I reiterate that the Auditor General's comment today was one of surprise, and perhaps dismay, that four lead agencies or departments declined to participate in INSAC.

Further, when the Minister is informing himself of the facts, could he also look into why, at the time of the Auditor General's audit, INSAC still does not have a mandate? Why is it taking so long to give this organization a formal mandate?

Perhaps the answer is that, if the organization does not have a mandate, it is difficult for some agencies to understand why they should participate.

**Senator Austin:** Honourable senators, Senator Meighen's questions were predicated on the Auditor General's report and her views. I have not had a chance to acquaint myself with those views as yet.

**Hon. Terry Stratton:** Honourable senators, when can we anticipate answers to those questions?

**Senator Austin:** As soon as possible.

**Senator Stratton:** If the leader reads the report today, can we expect answers tomorrow?

**Senator Austin:** I cannot provide a specific answer.

**Senator Stratton:** Why would that be?

**Senator Austin:** I cannot advise when that information will be made available to me.

#### AUDITOR GENERAL'S REPORT— SEPTEMBER 11, 2001—INTER-DEPARTMENTAL MEETING ON SECURITY AND INTELLIGENCE— ATTENDANCE OF AGENCIES INVOLVED

**Hon. J. Michael Forrestall:** If Senator Meighen could come up with some information that the Auditor General felt was important enough to bring to our attention, I find it passing strange that the Leader of the Government in the Senate did not at least have a briefing from his staff. I certainly was able to find certain information and, in fact, I have a couple of questions based on the report that was just tabled.

Briefings, which were open to all members of Parliament, both senators and members of the other House, were held this morning. We know where we are going on Thursday, and so does Senator Austin. We will be heading home to prepare for a general election, so he will not have to answer these questions.

Honourable senators, in her most recent report, the Auditor General noted that the government as a whole failed to adequately assess intelligence lessons learned from the September 11, 2001 terrorist attacks in the United States. Most of us find this somewhat startling, to say the least.

More shocking, however, is her finding that, when the Interdepartmental Committee on Security and Intelligence proposed a meeting of the heads of agencies to discuss the response to September 11, the heads of the RCMP, CSIS and Finance Canada did not attend.

Will the Leader of the Government in the Senate explain why the heads of these agencies, including the man who was the head of Finance Canada at the time, currently the Prime Minister of our country, did not ensure that their agencies were adequately represented at such a critical meeting?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I have already answered that question by advising Senator Meighen that I have not yet been briefed. There may have been a pre-briefing this morning, but I was occupied with other government duties and could not avail myself of the time to be debriefed.

• (1430)

**Hon. Terry Stratton:** Honourable senators, when we asked questions of former Senate leader Senator Carstairs immediately after the Auditor General's report, why was she so well prepared to answer our questions and my honourable friend is not?

**Senator Austin:** Honourable senators, in a succinct way, because the honourable senator likes succinct answers, I have no idea.

**Senator Forrestall:** Honourable senators, I wonder what the point of this is.

For the meeting I have just described, the Auditor General reported that a four-page discussion paper was provided, and that that was the only government-wide, post-mortem analysis conducted of the attacks on September 11. No record was kept of the meeting and no action plan or follow-up plan resulted.

Can the Leader of the Government explain why, in response to an event that changed the entire perspective of the world in the area of national security, the Liberal government bothered to produce a four-page discussion paper that resulted in no formal lessons learned and no follow-up plan?

While he is at it, perhaps he might indicate to this chamber whether a former member of the Royal Canadian Mounted Police VIP protection squad, Mr. Richard Flynn, of Mississauga, a retired RCMP officer, was in fact an employee or contractual employee of the Government of Canada?

**Senator Austin:** Honourable senators, I will seek information and provide it to Senator Forrestall when I receive it.

## HEALTH

### AUDITOR GENERAL'S REPORT— MEDICAL DEVICES PROGRAM

**Hon. Marjory LeBreton:** Honourable senators, I regret to tell the Leader of the Government in the Senate that I also have a question on the Auditor General's report. With the Auditor General being so current in the news, one would think that when she reports, someone would make it their business to inform the government leader about what the Auditor General has said, even if he is busy.

My question is in regard to a health matter. The Auditor General's report, outlines serious problems found with Health Canada's Medical Devices Program, which regulates everything from MRI and ultrasound equipment to pacemakers and defibrillators. The Auditor General found that in its current form, this program is not sustainable and is in need of adequate human financial resources or a complete redesign.

The audit stated that in 1992 a medical devices review committee found Health Canada did not have enough resources at that time and recommended an increase. Since then, budget cuts and problems in setting fees have meant that the funds going to the program today are actually less than in 1992.

Why did the government not follow through with the committee's recommendations made 12 years ago, and why has it allowed this program to become so seriously understaffed and underfunded?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, questions based on the Auditor General's report that was tabled at two o'clock this afternoon cannot be answered by me today because I have not had the opportunity to brief myself on these questions. However, I will take all such questions as notice and seek to provide answers. Alternatively, perhaps we could arrange a debate on the Auditor General's report, if the opposition would like to put the question down as an inquiry.

**Senator LeBreton:** Honourable senators, I have a supplementary question for the minister to determine while he is apprising himself of the report.

In the budget earlier this month, there was very little in the way of new funding for health care. The Prime Minister said last week that more health care dollars could be available to the provinces after this summer's meeting, on the condition that it would be tied to improving the system's overall processes. As the Auditor General has pointed out, the Medical Devices Program is clearly an example of a program in need of greater investment or a redesign to allow it to function better with fewer resources. Will the sustainability of this particular program be discussed at this summer's first ministers' meeting on health care funding?



**Senator Austin:** With respect to the question addressed to the agenda of the first ministers' meeting to be held in July of this summer, I will certainly carry the question to the Minister of Health.

With respect to the premise of the question, the government has transferred or is in the process of transferring \$2 billion as a one-time assistance payment to the provinces. The government has provided \$665 million to a new public health agency system. I think those are substantial transfers of funds into the health sector.

As honourable senators know, the Prime Minister has said that, subject to his discussions with the premiers, the federal government is prepared to provide additional funding to health care based on certain criteria that will be discussed with the premiers.

[Translation]

## JUSTICE

### RENEWAL OF COURT CHALLENGES PROGRAM

**Hon. Jean-Robert Gauthier:** Honourable senators, my question is for the Leader of the Government in the Senate and concerns the Court Challenges Program.

Launched in 1978, the program aimed to provide financial support for court challenges of national significance for individuals and groups seeking to assert and defend the constitutional provisions on equality rights — section 15 — and language rights — sections 16 to 23 — of the Canadian Charter of Rights and Freedoms.

The Court Challenges Program was in place for five years, till March 31, 2003. In order to assess the program and determine its relevance, the government extended the program by one year to March 31, 2004. In assessing the relevance of this program, has the government consulted the official language communities? If so, will the government be ending this program or renewing it for another five years?

[English]

**Hon. Jack Austin (Leader of the Government):** Honourable senators, the Court Challenges Program has been one of the best programs run by the Government of Canada. It provides funding for test cases of national significance in order to clarify the rights of the official language minority communities and the equality rights of historically disadvantaged groups.

The Department of Canadian Heritage has decided to extend the current agreement by three months from March 31, 2004, in order to finalize technical details in the documents necessary for program review. It is the intention of the government to renew the Court Challenges Program for an additional five years until March 2009.

## AUDITOR GENERAL

### POSSIBLE LEAK OF REPORT TO MEDIA— COMMENTS ON AIRPORT SECURITY

**Hon. Pierrette Ringuette:** Honourable senators, my question is for the house leader in the Senate. I will understand if he takes the question as notice. It is in regard to the Auditor General's report that we received about 15 minutes ago.

**The Hon. the Speaker:** Honourable senators, questions can be put to ministers, the Leader of the Government and to committee chairs. However, our rules do not include the Deputy Leader of the Government.

**Senator Ringuette:** My mistake. This question is for the Leader of the Government.

This morning, there was a lockup at nine o'clock for parliamentarians in regard to this report. We received this report 15 minutes ago. I would like to table in the Senate an article from the *Toronto Star* written by Mr. James Travers, who is a very professional journalist.

• (1440)

He writes:

...Fraser will not only question the efficiency of Canada's intelligence-sharing apparatus, she will reveal today that this country's airports aren't secure and its passport controls are dangerously weak.

For an article to appear in this morning's *Toronto Star*, it would have to have been filed by midnight last night. How did the media get hold of what was in the report before any lockup and before the report was tabled in the Senate? Was there a leak? If so, where does it come from? Finding the leak and its source is important because we might be looking at a situation of contempt of Parliament — which, as a parliamentarian, I consider to be a serious matter. We need to look into this matter.

My second question relates to the same report and to the article from which I have just quoted. It goes on to say:

...she will reveal today that this country's airports aren't secure and its passport controls are dangerously weak.

I should like to know what expertise the Auditor General has used to arrive at that assessment.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, who knows how leaks to the media happen. It would be easier to speculate as to why they happen. I cannot answer a question that relates to how the information was put into the hands of the *Toronto Star*.

Verifying the accuracy of the story and the report of the Auditor General is an exercise that we should do to see how close the Auditor General's report is to the story. As Senator Ringuette knows, it is not possible to table any documents during Question Period.

With respect to the question of airport security, our own Senate committee has done excellent work in looking at the security of airports. I think we can claim to have made a significant contribution to the profile, which the issue now has in government as well as with the public as a whole.

It is always difficult to operate in an open, transparent society with our democratic traditions and, at the same time, to try to withhold information that may be of use to people who would like to breach the security of our airports, our ports and our other institutions. It is a difficult balance. We are always seeking to find that balance in every policy step that we take.

## QUESTIONS ON THE ORDER PAPER

### REQUEST FOR ANSWER

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, yesterday, Senator Lynch-Staunton drew my attention to questions he has had on the Order Paper for some time. I undertook to expedite them if I could. I should like to report that I may not have them tomorrow, but I shall certainly have them on Friday.

## ORDERS OF THE DAY

### BUSINESS OF THE SENATE

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, I ask that Government Business be called in the following order: first, Bill C-4, the ethics bill, followed by Bill C-27, the Main Estimates and then Bill C-16, the sex offender registry.

## PARLIAMENT OF CANADA ACT

### BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Austin, P.C., seconded by the Honourable Senator Rompkey, P.C., for the third reading of Bill C-4, to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence.

And on the motion in amendment of the Honourable Senator Bryden, seconded by the Honourable Senator Sparrow, that the Bill be not now read a third time but that it be amended,

(a) on page 1, in the English version, by replacing the long title with the following:

“An Act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Counsellor) and other Acts in consequence”;

(b) in clause 2,

(i) on page 1, by replacing lines 8 to 27 with the following:

“**20.1** (1) Subject to subsection (2), the Senate shall, by resolution and with the consent of the leaders of all recognized parties in the Senate, appoint a Senate Ethics Counsellor.

(2) If the position of Senate Ethics Counsellor is vacant for 30 sitting days, the Senate shall, by resolution and after consultation with the leaders of all recognized parties in the Senate, appoint a Senate Ethics Counsellor.

**20.2** The Senate Ethics Counsellor shall be a member in good standing of the bar of a province or the Chambre des notaires du Québec.

**20.3** (1) The Senate Ethics Counsellor holds office during good behaviour for a term of seven years and may be removed for cause, with the consent of the leaders of all recognized parties in the Senate, by resolution of the Senate.

(2) The Senate Ethics Counsellor, on the expiration of a first or subsequent term of office, is eligible to be re-appointed for a further term not exceeding seven years.”,

(ii) on page 2, by deleting lines 1 to 49,

(iii) on page 3,

(A) by deleting lines 1 to 12,

(B) by replacing lines 13 to 18, with the following:

“**20.4** (1) The Senate Ethics Counsellor shall assist members of the Senate by providing confidential advice with respect to any code of conduct adopted by the Senate for its members and shall perform the duties and functions assigned to the Senate Ethics Counsellor by the Senate.”, and

(C) by replacing line 43, with the following:

“**20.5** (1) The Senate Ethics Counsellor, or any”,

(iv) on page 4, by deleting lines 16 to 24, and

(v) in the English version, by replacing the expression “Senate Ethics Officer” with the expression “Senate Ethics Counsellor” wherever it occurs;

(c) in clause 4, on page 7, by replacing line 8, with the following:

“**72.06** For the purposes of sections 20.4.”;

(d) in clause 6, on page 11, by replacing lines 37 and 38, with the following:

“(d) the Ethics Commissioner”;



(e) in clause 7, on page 12, by replacing lines 7 and 8, with the following:

“any committee or member of either House or the Ethics Commis-”;

(f) in clause 8, on page 12,

(i) by replacing lines 14 and 15, with the following:

“(c) with respect to the Senate, the”, and

(ii) by replacing lines 28 and 29, with the following:

“Commons, Library of Parliament and office of”;

(g) in clause 9, on page 13, by replacing the heading before line 1, with the following:

“SENATE, HOUSE OF COMMONS, LIBRARY  
OF PARLIAMENT AND OFFICE OF  
THE ETHICS COMMISSIONER”;

(h) in clause 10, on page 13,

(i) by replacing line 7, with the following:

“ment”, and

(ii) by replacing lines 14 and 15, with the following:

“Parliament or office of the Ethics Commis-”;

(i) in clause 11, on page 13, by replacing lines 21 and 22 with the following:

“brary of Parliament and office of the Ethics Com-”;

(j) in clause 12,

(i) on page 13,

(A) by replacing line 30, with the following:

“Parliament”, and

(B) by replacing line 36, with the following:

“Parliament”, and

(ii) on page 14,

(A) by replacing line 3, with the following:

“ment or”,

(B) by replacing lines 6 and 7, with the following:

“of Commons, Library of Parliament or office of the”,

(C) by replacing line 12, with the following:

“ment or”,

(D) by replacing lines 16 and 17, with the following:

“House of Commons, Library of Parliament or office of”,

(E) by replacing lines 25 and 26, with the following:

“mons, Library of Parliament or office of the Ethics”,

(F) by replacing line 33, with the following:

“ment or”, and

(G) by replacing line 38, with the following:

“Parliament”;

(k) in clause 13,

(i) on page 14, by replacing lines 47 and 48, with the following:

“Commons, Library of Parliament or office of”, and

(ii) on page 15,

(A) by replacing lines 13 and 14, with the following:

“of Parliament or office of the Ethics Commis-”,

(B) by replacing lines 22 and 23, with the following:

“of Parliament or office of the Ethics”, and

(C) by replacing lines 35 and 36, with the following:

“ment or office of the Ethics Com-”;

(l) in clause 14,

(i) on page 15, by replacing lines 43 and 44, with the following:

“brary of Parliament or office of the Ethics Commis-”, and

(ii) on page 16, by replacing lines 6 and 7, with the following:

“Parliament or office of the Ethics Commission-”;

(m) in clause 15,

(i) on page 16,

(A) by replacing lines 14 and 15, with the following:

“House of Commons, Library of Parliament or office of”,

(B) by replacing lines 20 and 21, with the following:

“Library of Parliament or office of the Ethics Commis-”,

(C) by replacing line 29, with the following:

“ment or”,

(D) by replacing lines 34 and 35, with the following:

“House of Commons, Library of Parliament or office of”, and

(E) by replacing lines 41 and 42, with the following:

“brary of Parliament or office of the Ethics Commis-”, and

(ii) on page 17, by replacing line 1 with the following:

“ment or”;

(n) in clause 16, on page 17, by replacing lines 11 and 12, with the following:

“mons, Library of Parliament or office of the Ethics”;

(o) in clause 17, on page 17, by replacing lines 20 and 21, with the following:

“Library of Parliament or office of the Ethics Commis-”;

(p) in clause 18, on page 17, by replacing line 30, with the following:

“ment”;

(q) in clause 25, on page 20, by replacing lines 26 and 27, with the following:

“Library of Parliament or office of the”;

(r) in clause 26, on page 20, by replacing lines 36 and 37, with the following:

“(c.1) the office of the Ethics”;

(s) in clause 27, on page 21, by replacing line 9, with the following:

“Parliament”;

(t) in clause 28, on page 21,

(i) by replacing lines 20 and 21, with the following:

“Library of Parliament or office of the Ethics Commis-”, and

(ii) by replacing lines 28 and 29, with the following:

“Commons, Library of Parliament or office of the”;

(u) in clause 29, on page 22, by replacing lines 14 and 15, with the following:

“Commons, Library of Parliament and office of the Ethics”;

(v) in clause 30, on page 22, by replacing lines 24 and 25, with the following:

“Library of Parliament or office of the Ethics Com-”;

(w) in clause 31, on page 22, by replacing line 33, with the following:

“ment”;

(x) in clause 32, on page 22, by replacing lines 38 and 39, with the following:

“of Parliament or office of the Ethics Commissioner.”;

(y) in clause 33, on page 23,

(i) by replacing line 3, with the following:

**“word “or” at the end of paragraph (b), by adding the word “or” at the end of paragraph (c) and”, and**

(ii) by replacing lines 6 to 8, with the following:

“(d) the office of the Ethics Commissioner”;

(z) in clause 34, on page 23, by replacing lines 15 to 17, with the following:

“(c.1) the office of the Ethics Commissioner”;

(z.1) in clause 36, on page 24, by replacing lines 11 and 12, with the following:

“Commons, Library of Parliament and office of the”;

(z.2) in clause 37, on page 24,

(i) by replacing line 22, with the following:

“Parliament”, and

(ii) by replacing line 31, with the following:

“ment or”;

(z.3) in clause 38, on page 25, by replacing lines 12 and 13, with the following:

“any committee or member of either House or the Ethics Commis-”;

(z.4) in clause 40,

(i) on page 28,



(A) by replacing lines 4 and 5, with the following:

“communes, à la bibliothèque du Parlement ou”,

(B) by replacing lines 17 and 18, with the following:

“ment ou au commissariat à l'éthique par”,

(C) by replacing lines 28 and 29, with the following:

“House of Commons, Library of Parliament or office of”,

(D) by replacing lines 34 and 35, with the following:

“Library of Parliament or office of the Ethics Commis-”, and

(E) by replacing line 43, with the following:

“ment or”, and

(ii) on page 29,

(A) by replacing lines 2 and 3, with the following:

“House of Commons, Library of Parliament or office of”,

(B) by replacing line 13, with the following:

“ment or”,

(C) by replacing lines 19 and 20, with the following:

“brary of Parliament or office of the Ethics Commis-”,

(D) by replacing line 26, with the following:

“ment or”, and

(E) by replacing lines 38 and 39, with the following:

“Commons, Library of Parliament or office of the Ethics”, and

(iii) on page 30,

(A) by replacing lines 5 and 6, with the following:

“Library of Parliament or office of the Ethics Commis-”,

(B) by replacing lines 20 and 21, with the following:

“Library of Parliament or the office of the”,

(C) by replacing lines 25 and 26, with the following:

“Commons, the Library of Parliament or the”,

(D) by replacing lines 36 and 37, with the following:

“Commons, the Library of Parliament or the”, and

(E) by replacing lines 42 and 43, with the following:

“Parliament or the office of the Ethics Commis-”; and

(z.5) in clause 41, on page 31,

(i) by replacing lines 23 and 24, with the following:

“Commons, Library of Parliament and office of the”, and

(ii) by replacing lines 43 and 44, with the following:

“Commons, Library of Parliament and office of the”.

*(Pursuant to the Order adopted on March 26, 2004, all questions will be put to dispose of third reading of Bill C-4 at 5 p.m. on March 30, 2004.)*

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I rise to speak to Senator Bryden's motion in amendment to Bill C-4. It will not surprise you that I have a number of difficulties with the proposed amendments. Those difficulties range from questions about particular sections, to major constitutional objections, to profound disagreements of principle.

It is appropriate that I restate the key elements of Bill C-4 as its supporters have presented them. The principle of Bill C-4 as it applies to the Senate is to create an officer of Parliament responsible to the Senate and reporting to the Senate under a code of conduct solely established by the Senate. The essential integrity of that office of the Senate ethics officer is based on independence, not just half independence as, for example, from the Governor in Council, but full independence, which means from the Senate itself.

To achieve that independence on which the credibility of the Senate entirely relies, it is vital that neither the Governor in Council nor the Senate controls the appointment of the Senate ethics officer. Clause 20.1 of Bill C-4 puts the Governor in Council and the Senate in equal positions of power. Each has a veto over the power of the other. The Governor in Council can only effect the appointment on the basis of a resolution of the Senate. The Senate can only effect the appointment if the Governor in Council concurs.

In achieving this balance of power, it is important also that the government of the day not be allowed to make the word “consultation” in clause 20.1 meaningless by using its majority in the Senate to have its way. It is for that reason that I gave an undertaking on behalf of this government on February 24, 2004, that it would respect the independence of the Senate in the appointments process.

The undertaking is as follows:

...on behalf of the government I now make a commitment that prior to sending the Senate the name of any person to be proposed to the Senate to be a Senate ethics officer, the Leader of the Government in the Senate shall be authorized to consult informally with the leaders of every recognized party in the Senate and with other senators and shall be authorized to submit to the Governor in Council the names

of such persons who shall, in the opinion of the Leader of the Government in the Senate, have the favour of the leaders of every recognized party, as well as the support of the majority of the senators on the government side and the majority of the senators on the opposition side.

The Governor in Council, in turn, will make every effort to accommodate the interests of the Senate in ensuring that the Senate ethics officer is both seen to be independent and is in fact independent in the discharge of those duties that will be assigned to the Senate ethics officer under the code of conduct the Senate decides to adopt.

Honourable senators, following this consultation, the Senate could then forward its proposed name to the Governor in Council by the formal method of the resolution under clause 20.1. As I pointed out in my address in opening third reading, should a future government fail to observe this undertaking, the Senate has a powerful sanction by withholding its action on the resolution.

I have said in earlier debates on Bill C-4 that I would welcome an extension of the proposed convention by having the resolution described in clause 20.1 moved by the Leader of the Government in the Senate and seconded by the Leader of the Opposition.

Senator Bryden has proposed a radical change to the regime put forward in Bill C-4. He introduced his amendment to this chamber as "an alternative approach" to that which is put forward in the bill. His proposal stands in stark contrast to that proposed by the government and, indeed, to those that have been proposed by parliamentary committees for over 10 years.

• (1450)

I will tell you, honourable senators, the proposal is so fundamentally different that I believe the amendments actually contradict the principle of the bill as adopted here on second reading. Let me quote to you the description from a unanimous joint Senate and House of Commons committee report of June 1992, almost 12 years ago. The first recommendation of that committee, highlighted in their summary of principal recommendations was that "an independent office of Jurisconsult be created." They elaborated on this as follows:

Our Committee heard extensive testimony about jurisdictions that have introduced a single individual to advise and guide Members as to the application of these [ethical] principles. We have seen this to be the trend throughout Canada — Quebec has a Jurisconsult; New Brunswick and Nova Scotia each have a designated judge; Ontario, British Columbia and now Alberta each have a Commissioner. In all cases, the appointment of an individual of impeccable integrity, stature in the community, and basic common sense has provided enormous assistance to the members and to the public alike. We were impressed by the unanimous support for

these individuals, and the offices they each fill, from the members who have turned to these people for advice and guidance, and from the members of the press corps that have monitored the legislatures these individuals advise.

One of our key recommendations in this report is that a similar office be created for the federal Parliament including Cabinet Ministers and Parliamentary Secretaries as well. Fundamental to the success of this project is finding the right person for the job; with someone of integrity and good judgment, who commands the respect of the community. We have confidence this will enable parliamentarians to not only try to be always ethical but to succeed.

I am quoting, honourable senators, from the "Report to the Senate and the House of Commons: Subject Matter of Bill C-43 (Conflict of Interests for Parliamentarians)" dated June 1992, which was referred to as the Blenkarn-Stanbury committee. Of course, the reference is to Senator Dick Stanbury, who served in the Senate for many years and brought much wisdom to our deliberations.

Today, honourable senators, there are independent ethics advisers in most provincial and territorial jurisdictions. We are in the very small minority of jurisdictions in this country without an independent ethics person.

Bill C-4 would finally see the Senate get an independent Senate ethics officer. However, the amendments proposed by Senator Bryden would effectively remove his or her independence. We would have, in essence, another law clerk by a different name.

Honourable senators, let me be clear. I have always felt that we are well served by our law clerk, but he is the lawyer for the chamber. He clearly is not independent of us or this chamber.

As proposed by Senator Bryden, the person — whom he would rename "Senate ethics counsellor," and I will come back to that shortly — would be appointed by the Senate alone, by resolution. I will also return shortly to the manner of the appointment, which I believe would be unconstitutional. Let us remain for now with the broad principles of that approach.

The key to Senator Bryden's proposal is that the Senate ethics counsellor would be appointed by the Senate, on its own, with no external check or balance to the power of appointment. He or she could also be dismissed, for cause, by the Senate acting alone. The balance provided in the current bill or involvement by the Governor in Council in the appointment and dismissal provisions would be gone. All the provisions governing how this individual would be compensated, reimbursed for expenses, hire assistants and set up an office would be deleted from the bill. There would be no longer any requirement by statute for the individual to prepare an estimate of the expenses of running the office, and no longer any requirement for those estimates to be considered by the Speaker of the Senate, transmitted to the President of the Treasury Board and laid before Parliament with the Estimates of government.



Honourable senators, there would be no external review or check on this person's conduct or office, only internally by us — the people he or she would be overseeing. We alone would decide his or her pay; we alone would decide whether or not to reappoint; and we alone would decide whether to dismiss him or her for cause. That is not an independent ethics adviser.

There is more. Proposed section 20.7 of Bill C-4 would require the Senate ethics officer to table an annual report in this chamber on his or her activities during that year. That section would be deleted by Senator Bryden's amendment. In other words, this person would be answerable to us and only to us; we would control his or her salary, terms of office, reappointment and possible firing. There would no longer be any public tabling of his or her expenses and not even an annual report on what he or she has done for the year. That is not what we could call increased transparency and openness.

Senator Bryden would change the name of the Senate ethics officer to Senate ethics counsellor. He explained this change as follows:

The purpose of using the word "counsellor" is to indicate that what we are looking for in this approach is to have this chamber be able to preserve within its framework the ability to have an ethics counsellor who can assist senators in following the codes, in doing all of the things that will be demanded of us as senators and to determine what type of rules we will have. It will be an assisting role, a counselling role. It will not be a separate, independent body that is apart from the Senate.

I am referring to the *Debates* of the Senate of March 25 of this year, page 624. In these words, there is not even a pretence that the proposed Senate ethics counsellor would have any measure of independence whatsoever.

Senator Bryden's proposed amendment to section 20.5 of the bill would reflect this new, much more limited status. Currently, the wording of the section would provide simply that:

The Senate Ethics Officer shall perform the duties and functions assigned by the Senate for governing the conduct of members of the Senate when carrying out the duties and functions of their office as members of the Senate.

In other words, everything about his or her role would be for us to determine.

Senator Bryden's proposed amendment would change this. The amendment proposes:

20.4(1) The Senate Ethics Counsellor shall assist members of the Senate by providing confidential advice with respect to any code of conduct adopted by the Senate for its members and shall perform the duties and functions assigned to the Senate Ethics Counsellor by the Senate.

I believe that it has always been anticipated that one of the roles of the Senate ethics officer would be to provide confidential advice with respect to the expected code of conduct. I have asked myself, why should this be taken out from among the duties and functions that can be assigned by the Senate and instead placed in the statute? I have been trained in the school of statutory interpretation that says Parliament does not insert words or phrases without significance. My only conclusion is that by putting it into the statute itself, it is intended for this role to trump any other role that this chamber may see fit to assign to the person. For example, it is no longer clear whether we could choose to have this person investigate allegations or impropriety and recommend appropriate action to us.

I appreciate that Senator Bryden, like many in this chamber, may have views on how this chamber should choose to structure the code of conduct and its implementation. However, that is a debate for another day. I do not believe it is appropriate to prejudge this chamber's decision by seeking to amend this provision in this way in order to characterize one particular role that our ethics person would play in order to define and limit the scope of the terms of reference.

I was also struck to see the changes proposed by Senator Bryden to the "consequential amendments" of the bill. They clarified for me beyond any doubt that, indeed, the proposal put forward by Senator Bryden is radically different from that in Bill C-4. I assumed when I first looked at the proposed amendment that he was simply replacing "Senate Ethics Officer" wherever it would be found with "Senate Ethics Counsellor." Not so, honourable senators. Instead he would remove all proposed references to the Senate ethics officer from all federal statutes.

For example, clause 7 of the bill, on page 12, would amend the Federal Court Act. Subsection 2(2) of that act clarifies that the expression "federal board, commission or other tribunal" — a critical expression in terms of establishing certain jurisdiction of the Federal Court under the act — does not include the Senate, the House of Commons or any committee or member of either House. Bill C-4 would add the Senate ethics officer and the ethics commissioner to that list. Senator Bryden would keep the ethics commissioner on the list, but delete any proposed reference to the Senate ethics officer or his counsellor.

His amendments to the Financial Administration Act, the Garnishment, Attachment and Pension Diversion Act, the Government Employees Compensation Act, the Non-smokers' Health Act, the Official Languages Act, the Parliamentary Employment and Staff Relations Act, the Public Service Superannuation Act, the Radiocommunication Act — even the amendments to the Canada Post Corporation Act — would all follow this same pattern.

The only conclusion I can draw about why this would be done would be to lower the status of the Senate ethics person from that of an independent officer equal in stature to the proposed ethics commissioner in the other place to something less — a regular Senate employee whose exemption from such statutes is subsumed within our own.

• (1500)

Honourable senators, the status quo is no longer good enough. Canadians expect more. They expect more rigorous oversight of our activities. They expect it from someone who is independent and of a stature to command our — and their — respect. We are here to serve the Canadian public. We are all always very conscious of that responsibility and of the honour of the service. Indeed, few in this excellent chamber who serve, have served their country, as diligently and honourably as Senator Bryden. We cannot now, on this issue, lose sight of Canadians' expectations of us and of this chamber. The status quo is not good enough. Canadians expect more, and they deserve more from us as parliamentarians.

Senator Bryden made a number of references in his speech to the Auditor General, holding that office up, as I read his speech, as an example to be avoided. However, honourable senators, does the Canadian public approve of the Auditor General? I think the answer is a clear yes. Does the Auditor General enhance the credibility of government, even as she may make things uncomfortable for the government? Again, I believe the answer is yes. Does the Canadian public believe we need an Auditor General? Again, I believe the answer is yes. Why would we want a Senate ethics officer to fall well below these same standards?

Honourable senators, there has been much discussion about the qualities that our new ethics officer should have. Senator Bryden's amendment requires that the new Senate ethics adviser — to use a neutral term — be a member in good standing of the bar of a province or the Chamber des notaires du Québec.

On a point of principle, as a lawyer myself, I disagree that the position necessarily should be filled by a lawyer. There are a number of highly skilled, capable, knowledgeable individuals who are not lawyers in whom I would confidently place my trust. I also want to point out that I have a number of lawyer friends in the Northwest Territories, Yukon and Nunavut who are rather miffed at being summarily rejected for this important position. I am sure that this was no more than an oversight, though obviously an unfortunate one.

Honourable senators, I believe that the amendments put forward should be rejected on principle, as this chamber needs and deserves a Senate ethics officer who is and who is seen to be independent, and who would be of a stature higher than that of our employees, impressive as our many employees are. We already have an excellent Law Clerk, honourable senators. The idea is to do something more than simply hire another legal adviser for the Senate.

I cannot leave this debate without pointing out the serious constitutional flaws in Senator Bryden's proposed amendment. Subsection 20.1(1) of his proposed amendment would provide:

Subject to subsection (2), the Senate shall, by resolution and with the consent of the leaders of all recognized parties in the Senate, appoint a Senate Ethics Counsellor.

Honourable senators, section 36 of the Constitution Act, 1867, states:

Questions arising in the Senate shall be decided by a Majority of Voices, and the Speaker shall in all Cases have a Vote, and when the Voices are equal the Decision shall be deemed to be in the Negative.

This is reiterated in our own *Rules of the Senate of Canada*. Rule 65(5) provides:

Questions arising in the Senate shall be decided by a majority of voices. The Speaker shall in all cases have a vote. When the voices are equal the decision shall be deemed to be in the negative.

Senator Bryden's proposed amendment would require more than a majority. It would require a majority of voices on the resolution as well as the concurrence of a few select senators — the party leaders — who would, in effect, have individual vetoes.

I appreciate that the proposed subsection 20.1(2) would allow the Senate, by resolution — that is, a simple majority — to appoint someone if the consent of all Senate party leaders is not obtained, but that would not save the unconstitutional provision. It seems to me that, under the proposed subsection 20.1(1) a question arises in the Senate that would be decided by more than a majority of voices, and that, on its face, is unconstitutional. However, the same "super-voting" status for party leaders would be required under Senator Bryden's proposed subsection 20.3(1) before the Senate could dismiss the person for cause. There is no fallback position there. Therefore, I believe there are serious constitutional problems with these proposals.

In my view, when our Constitution specifies that questions in the Senate must be decided by a majority of voices, one cannot provide a requirement or a rule that that majority must contain certain individual senators, be they party leaders, the Speaker, or all senators from a particular province, for instance. When it comes time to vote in this chamber, we are all equal. Under Senator Bryden's proposal, we would not all be equal when it came time to vote on the resolution to appoint a Senate ethics counsellor.

As I told the Honourable Leader of the Opposition when he asked about possible constitutional problems with the so-called double majority required by my undertaking to this chamber, my proposal would not require a vote. Under my undertaking, the consent of the leaders of the recognized parties in the Senate would go to the informal consultation required by Bill C-4 and not to the vote on the formal Senate resolution itself.

There is a further problem with Senator Bryden's proposal, honourable senators. Senator Bryden has carefully drafted his amendment to require the Senate to appoint a Senate ethics counsellor.

The proposed subsection 20.1(1) reads:

...the Senate shall, by resolution and with the consent of the leaders of all recognized parties in the Senate, appoint a Senate Ethics Counsellor.



Honourable senators, what is the remedy should the Senate fail or refuse to appoint a Senate ethics counsellor? I realize that, under subsection (2), the Senate could pass a resolution to appoint someone, without the consent of the leaders of the registered parties; but what if the Senate simply does not do so? Under Bill C-4, should the Governor in Council fail to appoint someone pursuant to the provisions, one could sue to compel it to act. That is basic Canadian administrative law. However, one cannot sue the Senate because it declined to pass a bill or a resolution. There is no remedy of which I am aware, honourable senators. The amendment reads "shall," but it is not a meaningful requirement because there is no recourse for anyone to force the Senate to act if it fails to do so, for whatever reason.

Before I close, I wish to address some concerns that Senator Bryden and also Senator Oliver raised about the undertaking I have given in this chamber. They challenge my use of a quote from one of the academic witnesses who appeared on this bill, Professor Fabien Gelin. I had pointed out that Professor Gelin agreed that the bill clearly gives the Senate the last word on the appointment. Senator Bryden acknowledged the professor had said that, but pointed out that he subsequently said the last word is actually with the government and not really the Senate. He said:

What the Senate can do is stop it. This is a negative power, not a positive power.

I do not propose to debate this issue at any length. To me, the power to stop something from going forward at all is a pretty powerful last word. Whether you call it a negative or a positive power, it is, nevertheless, very effective.

Senator Bryden also quoted Professor Gelin's statements questioning whether future governments will follow this undertaking. Once again, honourable senators, all that is within our power to do is to try to put in place the best system we can at this time. I have full confidence that this will indeed prove to be very workable and, indeed, a good approach. I have full confidence in Canadians, that they will elect future governments with the wisdom to see the merit in this system, notwithstanding that it was designed by a government other than their own.

• (1510)

Let me quote again for the record the answer I gave last week in this chamber to a question posed by Senator Comeau:

Given that we will be going into an election and that the odds are that we will not have the opportunity to appoint a new ethics officer, would the Leader of the Government in the Senate — who may not be the leader at that time; I hope it will be our leader — agree and confirm to this house that he will, if the bill passes, agree to the convention that he is proposing to establish if he continues to be the Leader of the Government in the Senate?

I replied:

Honourable senators, that is a hypothetical question. Normally I would not answer it, but I will in this case.

[ Senator Austin ]

If I should continue in a new Parliament to be the Leader of the Government in the Senate, I will ask the government of that day to permit me to give the same undertaking as I gave on February 24. I would be delighted to add to the precedent that I started by taking the same step twice.

This is in the *Debates of the Senate* of March 25, 2004, at page 617.

Honourable senators, Senator Bryden concluded his speech with a quote from a well-known saying. The quote he repeated was:

If not us, then who? If not now, then when?

The person who originally said those words was the eminent sage Rabbi Hillel. However, Senator Bryden only quoted two of Hillel's famous three questions. The third question, which he omitted, was:

If I am only for myself, what am I?

Honourable senators, we are here to serve the Canadian public. We cannot — we must not — ignore their expectations of this chamber and of ourselves. We must be seen as having their interests foremost in our minds.

In his remarks last Thursday, Senator Bryden quoted at length from an editorial that appeared last November in the *Ottawa Citizen* to indicate that members of the press would understand and support his changes to the bill. Last Friday, the very day after Senator Bryden made his speech here, *The Edmonton Journal* took a decidedly different view of what has been occurring of late in our chamber. It concluded its editorial by saying:

The Senators who have vocally opposed the Bill don't seem to recognize, or care about, the terrible optics of their position. Canadians might well wonder why senators who have nothing to hide would oppose the establishment of an ethics watchdog that will help preserve the Senate's reputation for honest public service. Surely that is reason enough to support the Bill.

Honourable senators, our ability to carry out our Constitutional responsibilities depends, in large part, on the public's perception of us, particularly since we cannot point to any direct electoral mandate that they have given us. The public's perception of its political institutions has been sorely tested of late. As I described in my speech at second reading, we cannot ignore the reality that we are a key part of the political system that Canadians are viewing with an increasingly jaundiced eye.

I know the great contribution that members of this chamber make to Canada and for Canadians. I know how critically important our independence is for us to fulfil our Constitutional role in the Canadian democratic system. I believe I can say with justification that I am second to none in my defence of the rights, independence and autonomy of this institution.

While my title and role is Leader of the Government in the Senate, I see my role equally as being the leader of the Senate in the government, representing our interests and upholding our rights and role in the Canadian political and parliamentary system.

Honourable senators, let me remind you again of the great body of work that has gone before to establish a code of conduct for parliamentarians and an independent office to administer that code. This bill has had the endorsement of the House of Commons on two separate occasions and was supported overwhelmingly there.

I believe this bill enhances the credibility and reputation of the Senate. I believe it is necessary for the Canadian public to be able to see that all its parliamentarians, in this chamber as well as in the other place, act in the public interest first, foremost and always. This bill is about putting in place independent officers of Parliament who will be able to help us to meet our ethical responsibilities and who will be able to assure the Canadian public that their parliamentarians are meeting their ethical responsibilities.

Bill C-4 has been crafted to assure Canadians that in our work here in Parliament, their interest always comes first. Let us not contemplate changes that would lead them to think otherwise.

**Hon. John G. Bryden:** Would the honourable senator accept a question?

**Senator Austin:** No. I wish to hear other senators in the debate.

**Senator Stratton:** It is just like Question Period.

**Hon. Anne C. Cools:** I also suggest to senators that Senator Bryden have ample opportunity to respond.

**Senator Bryden:** I do not want to start a fight. Believe me, I am a peace-loving person. I just wanted to say that it was a nicely crafted speech.

**Senator Austin:** It is not appropriate for Senator Bryden to comment on my speech.

**Senator Kinsella:** He is allowed to make comments.

**Senator Bryden:** As it was said to me the other day, nobody kicks a dead duck.

**The Hon. the Speaker:** Honourable senators, a senator is entitled to make a comment or put a question only if the senator whose time is being used is prepared to accept a question or a comment. Senator Austin has clearly indicated that he will not accept questions. I have no option but to go down my list and call on the next speaker. We would normally alternate between sides.

If Senator Corbin wishes to rise on a point of order, I will hear him, but I was about to go to Senator Andreychuk so as to respect the alternation between the of government and the opposition.

# POINT OF ORDER

**Hon. Eymard G. Corbin:** Honourable senators, on a point of order, when a senator sits, his speaking time is up. That is his decision. He wishes to speak no more. The provision in our rules is that another senator can only ask a question if the senator to whom it is addressed agrees to hear the question.

A comment, it seems to me, does not require a senator's assent. A comment is a comment. It is a free and democratic expression of a view. I do not think the senator who has finished speaking can prevent another senator from making a comment. That is quite open to interpretation.

A question is different. A comment is in a class by itself. It seems to me that those who crafted that particular rule had just that in mind. This is not an imposition on the senator who has just sat down. The comment is a reflection on his speech. He need not respond to the comment, but he would if he accepted a question.

We should have clarification of that matter; otherwise, the rule makes no sense whatsoever and should be revisited.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, on the point of order, no provision in our rules allows a comment to be made.

Senator Bryden has spoken in this debate. If we allowed a comment to come forward, everyone of us could get up and make a comment, which would be the end of the proper and organized business of this chamber.

The purpose of Senator Bryden rising is, of course, to try to contradict something that I have said. He has participated in the debate. I have now participated in the debate. I believe that other senators are entitled to participate in this debate. Senator Bryden is free to ask other senators if he might ask them questions. What Senator Corbin has said, I think, has no basis in our rules.

**Hon. John G. Bryden:** Your Honour, I will withdraw my request to make a comment or ask a question, and perhaps we could get over this hurdle. If someone does not want to play, he does not want to play. There are other senators who wish to speak. We have a vote at 5:30 p.m. I do not want to get in the way. There are good statements yet to be made by other senators.

**The Hon. the Speaker:** The point of order has been put in play. I will try to hear it and deal with it as briefly as I can.

**Hon. Anne C. Cools:** I agree with Senator Bryden.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, rule 37(4) is in play on the point of order, I believe. It reads as follows:

Except as provided in sections (2) and (3)



Those sections deal with the Leader of the Government in the Senate and the Deputy Leader of the Opposition being permitted unlimited time for debate, and the sponsor of the bill and the first senators speaking after being permitted 45 minutes. Rules 37(4) continues:

no Senator shall speak more than fifteen minutes, inclusive of any question or comments from other Senators which the Senator may permit in the course of his or her remarks.

The green light or the red light for the comments and questions is in the hands of the senator who has spoken. That is my reading of rule 37(4).

• (1520)

**The Hon. the Speaker:** Before I go to Senator Corbin for a final comment, if he wishes to make one, do any other senators wish to comment?

Seeing none, I would call on Senator Corbin.

**Senator Corbin:** Honourable senators, I think we should strike the provision for comment out of that rule, if it means nothing. What we are doing is preventing a truly democratic exchange of views in this place for the instruction and illumination of all honourable senators. Everything is not necessarily said once a senator has spoken for 15 minutes. In my time, rules like this were always interpreted in the sense of encouraging full debate, and not restricting it, because this place is called Parliament. Parliament means to talk and to express one's views.

The final determination comes only at the time of the vote. I have always been in favour of extending free speech. Otherwise, this place means nothing. Put the padlock on it.

**Senator Austin:** Honourable senators, as Honourable Senator Kinsella says, the rule means nothing unless it means that the last phrase controls the behaviour of other senators, which the senator may permit in the course of his or her remarks. Otherwise, as I have said, we will get endless political comment on a senator's presentation — not in the context of organized presentations, but in the course of ad hoc debating. The rule is clear. Consent from the speaker, in this case myself, would be required to permit a comment.

**The Hon. the Speaker:** Honourable senators, I said I would close with the person who made the point of order, and I shall. Do you wish to comment further, Senator Corbin?

**Senator Corbin:** No, Your Honour, thank you kindly.

**The Hon. the Speaker:** I thank Senator Corbin for raising the point of order and those senators who have participated in the comments in terms of what the Chair should rule on the point of order. The comments have been helpful; as such, I can dispose of this matter now.

The rule is fairly straightforward. It has been quoted in full by Senator Kinsella. I shall not do that again; rather, I shall focus on the words of rule 37(4), which reads:

37(4) ...no Senator shall speak from more than fifteen minutes, inclusive of any question or comments from other Senators which the Senator may permit in the course of his or her remarks.

I read it that the word "question," — "which the Senator may permit in the course of his or her remarks" — and the word "comments" — "which the Senator may permit in the course of his or her remarks" — have equal weight. Accordingly, if the senator who has the floor does not permit further comment or questions, then that is the end of the matter.

I shall now return to my list, and on my list is Senator Andreychuk.

**Hon. A. Raynell Andreychuk:** Honourable senators, the atmosphere here is not quite the one in which I thought I would stand and be able to speak. This chamber is a place for debate and dialogue, not a place for us to give speeches but, rather, to attempt to influence and hear each other and to take into account what other honourable senators say. That hardly speaks well of the word "consultation," if we do not have proper debate here.

I put that on the record because I think we should reflect on that in our future work. Perhaps the Rules Committee should take that up, as it relates to our behaviour and attitude toward each other here.

Honourable senators, I do not intend to speak on the legalities of this bill in any great detail. I have spoken in committee, on the floor and in questioning Senator Austin and others.

Honourable senators, Bill C-4 is the same bill — numbered differently — as that introduced by Prime Minister Chrétien in the last session. Nothing has changed. Prime Minister Martin has reintroduced Bill C-4 in exactly the same form as Bill C-34. It is, therefore, not unusual to refer to this legislation as the Chrétien-Martin response to how the question of ethics and an ethics officer, for ministers, members of the House of Commons and the Senate, will be handled.

A Red Book promise of an independent ethics officer for Parliament is still outstanding whether or not we pass Bill C-4. There is abundant evidence that the appointment of Mr. Wilson — particularly the method and the operation of Mr. Wilson's office — was not viewed by the public as independent. Nor is it independent in law or, as we have witnessed time and again, in practice.

What does Bill C-4 do? Some honourable senators have correctly pointed out that the proposed legislation merely appoints an ethics officer for the Senate and, in law, the appointment will be by Governor in Council. That, as anyone who studies Parliament will understand, is the Prime Minister's ultimate right and responsibility. Make no mistake: No matter what system is put in place for consultation, the ultimate right to appoint is by the Prime Minister.

Why do honourable senators, or a majority of them opposite, it would appear, indicate that we need to give this right to the Prime Minister when, after all these years, we have not? They say there is a perception that needs to be addressed, a perception of wrongdoing, I presume, a perception of inappropriate behaviour, a perception of unethical behaviour. Yet, all those senators have rushed to state that, of course, there is no reality of wrongdoing or unethical behaviour, that it is simply that we must respond to the public's perception.

I do not think, honourable senators, this is the case. The public is not so ill-informed. They want a real, improved democracy. They want a Parliament that functions independently of the fine, but fierce hand of the Prime Minister.

Honourable senators, our system of justice has been built on reality, on the rule of law and on the adherence of those rules. When a person perceives that he has not been treated justly, the underpinnings of the criminal law, for example, point to the fact that the rule of law was followed, and what we are trying to do is to bridge the perception to the reality.

If I follow the government's line of thinking here, if perception is the issue, then we will pretend to give it to them, an independent ethics officer. Since it is a perception, we will respond with perception. To go further would mean that the officer would be independent of Senate and independent of the Prime Minister. This is what I have stated in this chamber for some 11 years. This could be done by passing legislation, by setting up an arm's length search and appointment process or any number of worthwhile suggestions that the mind can create.

There is nothing in Bill C-4 to assure the public that there is independence or an ethical standard. Rather, if we pass Bill C-4, we will have taken away the independence of the Senate to appoint its own and, hence, be accountable to the public. We will have given this power to the Prime Minister, thereby increasing the consolidation of the power of the Prime Minister and the Prime Minister's office over even more action over Parliament.

We will be creating a further democratic deficit in Parliament at a time when the public wants a real return to parliamentary process. The real actions in the government now are to thwart democratic action in Parliament. Why do I say this? Let us examine what happened in the political manoeuvring of this bill.

In the last session, the Senate overwhelmingly, after debate, voted to amend Bill C-34 to ensure a measure of independence from the government and to restore the responsibility for ethics in the Senate, thereby separating the executive from the legislative arm of Parliament.

• (4530)

What has Prime Minister Martin done? He has reintroduced the entire bill in the same form at a time when he has promised to deal with the democratic deficit in Parliament and to give free votes for

parliamentarians on questions of conscience. Surely, issues of ethics, accountability, conduct, transparency and democracy are questions of conscience.

How we act, how we behave, how we answer to the public are the most fundamental moral and legal questions senators have to face.

Minister Cotler, in addressing the committee, talked about the democratic ethos that is necessary in a democratic state. Little has been said in the committee and on the floor of this chamber about how it marks a democracy from other forms of government. What marks a democracy from other forms of government? It is the rule of law and the respect for the legislative arm being separated from the executive arm and the judicial arm.

As any good lawyer knows, it is often said in criminal law, "Give me a bad case and I will try to put the best face on it." To his credit, Senator Austin attempted to put a good face on a bad piece of proposed legislation by indicating an undertaking, knowing full well that it falls short of being binding.

Honourable senators, in a democracy, one does not depend on promises from the Prime Minister. One relies on the rule of law. It is not the largesse of the Prime Minister on which the people of Canada rely, but on the rule of law being followed. We should not be beholden to the Prime Minister nor should we be requesting that the Prime Minister consult with us. Rather, we should rely on and follow the law. The law, honourable senators, in Bill C-4 clearly diminishes any real function for the Senate. As I have stated, Bill C-4 gives us only a pious invocation to seek influence with the Prime Minister and not real decision-making power.

I believe the people of Canada want a code of conduct for parliamentarians to follow. Honourable senators, there is not one word about creating a code by legislation. Rather, there are inferential indications that the senators would be responsible for their own code, as is the House of Commons. There is nothing in the proposed act about a code or what kind of code. How it will be done is simply not in the bill.

What is real about Bill C-4 is that there is less for the public and not more. On the day this bill passes we will have taken away section 14 of the Parliament of Canada Act and replaced it with nothing. More particularly, for the public, the Consequential Amendments Act will lessen access to information. Commissioner Reid stated it would lapse the scrutiny of some 2,500 people who are now subject to the access to information laws. That, honourable senators, is a lessening of public scrutiny.

Senator Austin has said that the matter that Commissioner Reid raised was not substantial. However, honourable senators, reductions from access are substantial. These are rights that citizens slowly claimed, inch by inch. Now, with the passage of this bill, we will be tearing away access to information that responds to the "need to know," which is the hallmark of a democracy. Bill C-4 will diminish the ability for scrutiny by citizens. We end up with what? The real need to answer to the people will be diminished. Real control will be consolidated further in the hands of the Prime Minister.



What is frightening is that real changes that need to be made are not being made. Democratic deficit is being enlarged because of a Prime Minister who is using the whip on this issue and not allowing senators a free choice. Senator Smith said that it provided for a majority to vote against the government. Well, we will see.

As well, real parliamentary oversight and change is not occurring. In fact, today we have officers of Parliament appointed by the Prime Minister after consultation. I was shocked and saddened to hear of a vitriolic attack against the Auditor General in this chamber last Thursday. No one stood up to object to the fact that the Auditor General, in her capacity, carried out her duties. I believe that Canadians expected nothing less of her. Yet, parliamentarians appear to be very comfortable in attacking the very person for whom they should be accountable.

Where did the cracks start? They started with Mr. Radwanski. Over the years, consultations had become so superficial and routine that the Prime Minister himself did, in fact, appoint Mr. Radwanski. We know what we got. Mr. Marleau, in appointing Mr. Radwanski's successor, followed at least a temporary, somewhat-arm's-length process for appointment.

Commissioner John Reid came forward with a compelling "re-look" at how we should appoint our officers of Parliament and how we should continue access to information and privacy. That, Senator Austin said, was not an object of Bill C-4, but that we should be discussing a new and different way.

Honourable senators, I believe it is not a perception; it is a belief based on fact that people do want more and better accountability. It would have been more appropriate if Prime Minister Martin had said that he believed in democratic reform and that he would attack democratic deficits by introducing a new Bill C-4 that would take a new, modern, imaginative approach. Instead, we have this bill before us — Prime Minister Chrétien's bill. We have it again. It does not augur well to see Prime Minister Martin continuing in the same mould and manner as his predecessor.

Senator Kroft says that those of us who think that a new, revamped bill could have made it through the House of Commons are wrong; that the House would not have allowed the bill to pass. Honourable senators, I do not believe that any party in the opposition could have or would have defeated a new, real bill with a democratic process, with accountability and with transparency. Such a bill would have marked Mr. Martin's leadership and his respect for the independence of Parliament.

We have an illusion of change in Bill C-4 but, in reality, we have more of the same for the public. We have perceptions instead of real, fundamental changes. For the Senate we have an admission that the perception of independence will still exist, but the reality will be different.

[ Senator Andreychuk ]

Honourable senators, Bill C-4 represents the first time in over 100 years that our independence from the government will be tested by law. This comes at the very time when the public is questioning our legitimacy due to the fact that we are appointed. Surely, our critics will be right if we do not at least pass Senator Bryden's amendment. Otherwise, the Prime Minister's will and power over this house will be complete and our irrelevance underscored. As Senator Oliver said, from watchdog to lap dog.

I have fought to legitimize our actions in this place as being relevant for citizens. This bill in no way serves the citizens of Canada. It creates a rope around our necks, tied to the Prime Minister. Do we want to do what is popular or what is right, irrespective of any personal loss of status in this chamber?

Senator Bryden is by no means setting up a truly independent and modern regime. He is ensuring that the Senate continues. If we do not pass Senator Bryden's amendment, we will regress. We will have less power and the people will have less scrutiny, for without Senator Bryden's amendment, Bill C-4 is less than what the public has today.

• (1540)

**Hon. David P. Smith:** Will the honourable senator take a question?

**Senator Andreychuk:** Yes.

**The Hon. the Speaker *pro tempore*:** Honourable senators, I am sorry, but the time for Senator Andreychuk to speak has expired.

**Senator Smith:** I was rising to ask a question. Could we have an extension of time for a question?

**Senator Andreychuk:** I will answer with the understanding that the question is extremely short.

**Senator Cools:** Your Honour, regarding the point of order made a few minutes ago, Senator Bryden made the point that many senators wanted to speak, and perhaps we should bear that in mind.

**Hon. Herbert O. Sparrow:** Did the Honourable Senator Andreychuk say that she did not have time to answer questions?

**Senator Andreychuk:** I would ask for leave, bearing in mind the time is short. I hope Senator Smith's question will be short.

**Senator Smith:** It will be, if I have consent.

**The Hon. the Speaker *pro tempore*:** Is leave granted for Senator Smith?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** No.

**Hon. Jim Munson:** Honourable senators, as the new kid on the block, I am not here to engage in legal and constitutional debate dealing with Bill C-4, but I understand something about the mood outside this chamber. My message will be short, simple and to the point. All of us have heard calls for change. The words "transparency" and "accountability" are at the tip of everyone's tongue in the context of governance.

Today, I should like to speak in support of Bill C-4. This bill is the result of a long-standing commitment made by the previous Liberal government under the leadership of the Right Honourable Jean Chrétien to strengthen Canada's democratic institutions and make them more accountable and transparent. Long before today's top media stories calling for greater transparency in ethics and government, the Liberal government was putting in place changes and legislation to improve our democratic institutions.

As honourable senators know, Bill C-34 — the forerunner to Bill C-4 — was part of proposed eight-point ethics package that included several measures to strengthen Canada's democracy, including limits to political financing and changes to the Lobbyists Registration Act.

When we consider the bill that has become Bill C-4, we must recognize its many merits. In regard to the Senate ethics officer, we must acknowledge that Bill C-4 respects the traditions of Parliament and the role of the Senate. With Bill C-4, it will be the Senate that determines the role and functions of the ethics officer. With Bill C-4, the Senate retains full control over the discipline of its members. The creation of a Senate ethics officer would, in no way, in my opinion, limit the powers, privileges, rights and immunities of the Senate or its members. In short, the creation of a Senate ethics officer in no way changes what we do and why we do it.

Therefore, what does Bill C-4 do? What does the creation of a Senate ethics officer do? Honourable senators, Bill C-4 gives us an opportunity to show Canadians that the Senate is not some closed or secret society. It shows Canadians that we take our work seriously and are proud to be accountable to the citizens we serve. This bill allows us to act on a moral obligation to be open and transparent to Canadians. There have been concerns expressed that personal information provided to the Senate ethics officer would be public. We know that the Senate ethics officer will be tabling an annual report in the Senate, but it will be up to the Senate Rules Committee to decide what information is reported and what information is made public.

As many of you know, including my colleague in front of me, in politics, perception is everything. Let us pass Bill C-4 and show Canadians that we are a dynamic institution that embraces change. Let us show Canadians that we recognize the evolving nature of democracy and the need for our institutions to step up and meet the challenge of change.

We must not fear change, honourable senators. We must recognize the opportunity that it represents. With the passage of Bill C-4, we will contribute to greater openness in government, we

will help to change the public perception of the Senate, we will reaffirm our role and responsibilities as senators and we will show Canadians that the Senate is a modern, relevant institution and an essential part of an evolving democracy. With the passage of Bill C-4, honourable senators, we are taking steps to strengthen this institution and ensure its relevance into the future.

**The Hon. the Speaker:** I had Senator Beaudoin on my list as the next speaker. Senator Beaudoin, did you wish to speak?

**Hon. Gérald-A. Beaudoin:** If I may, I will, but I do not want to jump in front of another senator.

**The Hon. the Speaker:** Honourable senators, we would normally alternate between a government side speaker and an opposition side speaker. It is now the opposition side turn, and it had been indicated to me, Senator Beaudoin, that you wished to speak, and I had you next. I will put Senator Comeau my list.

**Senator Beaudoin:** Honourable senators, the selection system of an ethics officer that I prefer is one that starts in the Senate, more particularly, in a special committee of the Senate, and thereafter goes to the Prime Minister's Office. The process should begin in the Senate, then move to the Prime Minister.

The Senate committee would ask for applications from those who are desirous of becoming the ethics officer. Thereafter, that committee would do a screening of the applications, develop a short list, and then the Prime Minister, who, of course is very important in our system, would select the commissioner of ethics from that short list.

In my opinion, there is nothing unconstitutional in that mechanism. I think that we may legislate. We are a legislative branch of the Canadian system, and we have to do something. We have a chance.

We have before us the system as explained by the Leader of the Government in the Senate, Senator Austin. Some call that system the "convention system," and there are elements of convention in the proposal of Senator Austin. That system, obviously, may be adapted to an evolution as we are used to seeing in the British parliamentary system.

We also have before us Senator Bryden's amendment. It is legislative in nature, and we are used to the proposition that one of the most important duties of the Senate is to amend legislation, to render it more appropriate.

Senator Oliver and many on this side are interested in that amendment and, therefore, it is important to consider that legislative amendment.

Senator Bryden's amendment favours the Senate. The amendment is in favour of a stronger legislative branch of the state in the constitutional system that we have. I repeat, and I think it is very important, that what should be in force in our system, and what we should attain in our system, is stronger powers for senators and Members of Parliament. I have always said that the legislative system is not strong enough.



• (1550)

We are legislating for a better Senate. If we follow that amendment, we are legislating for a commissioner of ethics. It is very important. If our system is not strong enough in our Parliament, it is up to us to become stronger and, if possible, to be at par with the judiciary. The judiciary is very strong in our country. I do not object to that. The executive is also very strong, but the legislative branch is not. This is why I would put the first priority, if I may say that, in the Senate. It is only thereafter that the Prime Minister would enter the scene. Of course, it is important, but, more than that, it is essential that the Prime Minister select the commissioner from the short list. The short list would come from the Senate.

Some people have said, "Yes, but with the legislative amendment perhaps the commissioner is not strong enough." Obviously, it is important that the commissioner of ethics be strong. However, what is mandatory is that we do something to promote our legislative institutions.

I would like to hear a little more on the system. I know that Senator Joyal will speak about what we should do in the Senate to start with and how we should first choose a commissioner.

This debate, in my opinion, is necessary. It comes at a difficult time, but such is life. We have to do it. We have to consider an amendment and vote, whether we are for or against. However, that will not be the end because we may select a route, a road. We may select "une voie," as we say in French, but I attach the greatest importance to the fact that it should come from the Senate.

Honourable senators, there is no doubt in my mind that we have that power. This is what we call "law in the making." Sometimes we are lacking in imagination. Creative imagination is very important in the field of constitutional law and the Canadian Charter of Rights and Freedoms. We have to take some risk, because I do not believe that this new officer will be established in one day. It may be that after a while we will have to study more deeply the powers of that commissioner or counsellor.

If I may summarize, we must have a proper balance. Everything is there. The two systems are interesting, but I am inclined to favour the legislative route because I know that route more adequately. Again, we in the Senate should have the courage to also accept a commissioner who has power.

**Hon. Serge Joyal:** Honourable senators, today I rise to speak on the third reading of Bill C-4, after so many other interventions on Bill C-34, the previous bill, numerous meetings of the Rules Committee, and so many speeches on the appropriateness of an ethics counsellor for the Senate.

I have already written, in a book that we published last year — Senator Murray, I, and seven other distinguished Canadian professors — that we should have a Senate ethics counsellor. I do not question that, nor do I question that we should be assisted in

the organization of our affairs to ensure that conflicts of interest are taken care of. This house could then perform its legislative duties in all quietness to ensure that our decisions are wise and for the benefit of all Canadians.

I have stood previously in this chamber to debate other bills where I had the personal conviction that the status and the powers of this chamber were questioned by legislation. Senators will remember the clarity bill, where our chamber lost its decision-making power in relation to the key issue of the future of our country or, to put it in negative terms, in dismembering our country.

I have stood up on many occasions to debate legislation coming from the other place that omitted the Senate. In regard to those bills, the House of Commons took it upon itself to make decisions and ignored the status and the constitutional role of our chamber. I rose to speak to the salaries bill and drew the attention of honourable senators to the danger that paying the chairs and the deputy chairs of our committees might bring to the independence of the exercise of our duties. Each time that I look at a bill and come to the conclusion that our capacity to assume our duties might be questioned, I feel it is my duty to draw the attention of senators to this.

Today, we are wrestling with the final hours of a long journey. I have heard some senators in the last days state that the political environment is different from what it was last fall. In the other place, there have been many debates following the tabling of the report of the Auditor General. There are many comments in the press each time that there is alleged administrative or political wrongdoing in the other place; and, as Senator Munson has just said, perception is the reality.

In the context of action, we should move forward and give the public what they want. I am not sure that the change in the political environment that has been described by some of us is the real change since November. To me, the real change is direction that the new Prime Minister wants to bring to the role of Parliament.

• (1600)

I will quote the Prime Minister of Canada. Two weeks ago, on March 17, Mr. Martin went to the Chamber of Commerce of Quebec City and he gave a written speech. I understand that a written speech is a firm direction of government. Mr. Martin stated in that speech on March 17:

As I said 18 months ago, the change in culture, in the way things are done, will be the yardstick against which our success will be measured.

Let's be frank: In recent decades, the Prime Minister's Office had become too powerful, to the detriment of our Parliamentary process.

[ Senator Beaudoin ]

He continued:

In the same spirit of progressive reform, we want to give Parliamentarians the right to review the vast majority of appointments to senior government positions, including appointments to the Supreme Court of Canada.

Honourable senators, there has been a major change in the political environment since November because of the questions on the way in which the Parliament of Canada has functioned over the decades. If we are to adapt to the change of political culture and be measured against that yardstick, how does Bill C-4 fare? In my view, the starting point is what our founders left us as a political will. What did Sir John A. Macdonald say about the powers of the Senate? I will quote Sir John A. Macdonald, when he was drafting the Senate, as cited in Professor Rémillard's book:

There would be no use of an Upper House, if it did not exercise... the right of opposing or amending or postponing the legislation of the Lower House. It must be an independent House... for it is only valuable as being a regulating body, calmly considering the legislation initiated by the popular branch, and preventing any hasty or ill-considered legislation...

This is our role, and that is why we must be independent. What does it mean to be independent? We must be independent from the Crown, the executive, the cabinet, the Prime Minister and the courts. Those are the two poles of attraction whereby our independent status can be questioned.

Honourable senators, no one better understands the implication of Bill C-4 than Senator Austin. I had the pleasure to sit with Senator Austin in this chamber and to work with him in various incarnations. Senator Austin has acute judgment to perceive what is at stake in Bill C-4 and, in its previous incarnation, Bill C-34.

Senator Austin gave an interview that was published last fall. He said that the bill raised major questions about the independence of the Senate and its ability to govern its own affairs. He said he objected to the appointment procedure contained in the bill. Senator Austin said that a number of us feel that the PMO should not be drawing lists, interviewing people and sending lists of names to us to choose from.

Honourable senators, I have wrestled with that area of the bill. I know that I am not disclosing private conversations with Senator Austin. I have too much respect for the long years that Senator Austin has served this institution and the Government of Canada in previous governments. Honourable senators, the fundamental question relates to the appointment process proposed in this bill.

I must recognize and pay respect to Senator Austin for trying to wrestle with this issue when he made his statements on behalf of the government in trying to find a proper way to do this. He tried to take the conventional route but, as we lawyers know, this is not a convention. Senator Austin tried to propose a direction for our deliberations, and we all agree with that. The problem is that it does not give us a guarantee that the good intentions of Senator

Austin will be implemented. I have tried to wrestle with that issue and I have wondered just what options are available that are more than simply a statement of intention.

In those reflections, honourable senators, I came across an avenue that I will not propose to you. That avenue was taken by the Alberta legislature. It is quite a surprise that in issues dealing with the Parliament of Canada, we will look to the Alberta Legislature.

I would like to appeal to Senator Austin. In response to Senator Comeau on Wednesday, March 24, Senator Austin said:

I would also say that I could not speak to the future. I do not know who will be Leader of the Government in the Senate in another Parliament. However, I believe the undertaking is important and should be followed from time to time.

I would also say that what does not change from one Parliament to another is the existence of the rules.

Honourable senators, this is one way for us to take back control of the appointment process in the proposal in Bill C-4. Remember, two weeks ago the Prime Minister of Canada spoke to re-empowering Parliament over the appointments of officers and of public servants at the highest level whereby Parliament should be the one to conduct the selection and the appointment process.

How should we proceed, honourable senators? It is my opinion that we should amend rule 86 of the *Rules of the Senate*, which deals with committees of the Senate. The Senate should have a rule stating that, when a vacancy occurs in the position of Senate ethics commissioner or officer, the Senate shall form a Select Committee. That Select Committee should be composed to form the various committees of this chamber. It should also develop the criteria which candidates must meet in order to seek the position of ethics commissioner. Postings should be published all across Canada. There should be a mechanism to screen the various people who would offer their professional services. That screening process should, as in the Alberta legislature, be handled by members of the Public Service Commission.

Once the screening process is complete, there should be a short list of five to six names. Members of the select committee would then interview potential candidates and that should result in one name being put forward to the Governor in Council. The Governor in Council would thus be satisfied that the process had been public.

What do we want? We want a transparent selection process. I have reservations about the top-down mechanisms Senator Austin mentioned. What is the top-down mechanism? It is enshrined in Bill C-4. The Prime Minister, cabinet, the PCO and the PMO come forward with a name from the top. Government leaders search around the table, hoping to reach a consensus. That is not what we want. That is not what I want. Rather, I believe we should have a select committee of this chamber handle the process so that there will be transparency outside this chamber.



• (1610)

For the process to be transparent outside this chamber, it must be posted in the newspaper. There must be screening, and there must be a short list so that in the end we have a candidate who is vetted by an autonomous, reliable and credible process.

I appeal to Senator Austin, as the Leader of the Government in the Senate, to consider that approach so that we remove from the government leader the odious responsibility of being in the hands of the government of the day. I appeal for the contrary of what the leader intends to do with this.

Honourable senators, in using the creativity of our minds, of the rules and of precedent, we could come forward with a solution that would satisfy the preoccupations that we have to maintain the independence of this chamber from the executive government.

**The Hon. the Speaker:** Senator Joyal, I regret to inform you that your time has expired.

**Some Hon. Senators:** Ask permission.

**Senator Joyal:** Honourable senators, I would ask for leave to conclude. I need three more minutes.

**The Hon. the Speaker:** Honourable senators, is leave granted for Senator Joyal to complete his speech?

**Hon. Senators:** Agreed.

**Senator Joyal:** Honourable senators, I shall conclude quickly.

The other preoccupation, as stated by Senator Austin previously, is independence from the court. We do not want the process to be transferred from this chamber into the courtroom. We all agree with that, in principle.

The problem that I have with this bill is that there are elements of it that raise questions. Let us put it down to the common denominator. Senator Munson referred to privileges in his speech. The House of Commons Standing Committee on Procedure and House Affairs, in its eighth report, stated that the issue of privileges that are at stake with the appointment and the role of the ethics commissioner are a very, very difficult legal issue.

The eighth report, which was released on March 8, 2004, stated, in part:

One of the biggest hurdles is the lack of awareness and appreciation of the nature of parliamentary privilege among most judges and lawyers.

**Senator Cools:** That's right!

**Senator Joyal:** Honourable senators, the House of Commons came to the conclusion that this is a very difficult issue. The British House of Commons and the Lords came to

exactly the same conclusion in relation to the ethics rules. Recommendation 123 in their 1999 report states: "We recommend that legislation should make clear that keeping the register, i.e. the ethics rule, and hence the registers themselves are proceedings in Parliament."

There is a doubt, honourable senators. Even Joseph Maingot, the government expert on this subject, stated last week: "I do not see the need for clause 25.5 because he or she is already covered."

There is a significant amount of preoccupation amongst experts on this subject. There is a doubt there.

Honourable senators, I again appeal to the Leader of the Government in the Senate and to his long experience and conviction that the maintenance of the independence of our institution is key to the performance and credibility of our institution. I am quite sure that with all the men and women of good will in this chamber we can address the issues and come forward with a system that will answer our needs, that will provide the transparent system the public deserves and will give us the intimate conviction that we have stood for in the institution.

**The Hon. the Speaker:** Will Senator Joyal take a question or comment?

**Senator Joyal:** I would be discourteous if I were to refuse to answer a question from the Leader of the Government in the Senate, Your Honour.

**Senator Austin:** Senator Joyal has addressed me directly. May I respond by saying, first, that I greatly value the speech he has just given. It is an outstanding contribution to this debate.

Second, I would ask Senator Joyal the following question: Would he not agree with me that we, and we alone, are the master of our rules?

**Senator Joyal:** Absolutely.

**Senator Austin:** If you do agree, then there can be no question that the Senate, should it wish to do so, could move forward in its rules a reciprocal system to accommodate Bill C-4.

**Senator Joyal:** Honourable senators, I should like to stress, and share with the Honourable Leader of the Government in the Senate, the importance to put as much in the rules as possible to achieve the two objectives that we want. First, we want to keep the issue in this chamber and not in the courtroom. The more we put in the rules of this chamber, the easier the court will recognize the fence that exists around the rules of the Senate.

There are numerous precedents that I could quote to the Leader of the Government in the Senate showing that when the court realizes that there is a rule they stay away from it. The judgment that the Leader of the Government in the Senate has quoted from 1995 in the judicial privy council recognized that.

[ Senator Joyal ]

Second, the more we put into the rules, the more we protect this chamber from political intervention by the Crown. That is what we want to achieve. Again, the most important element that we must protect is transparency. Use the rules, the rules, the rules.

**Senator Bryden:** Would Senator Joyal accept another question?

**Senator Joyal:** I would accept a question from the honourable senator.

**Senator Bryden:** Could the scheme that Senator Joyal outlines under the rules be done under the amendment that I have proposed?

**Senator Joyal:** Totally. In all fairness, it could be done in the context of Bill C-4. It could also be done in the context of the honourable senator's amendment. It would be more difficult under Bill C-4.

**Senator Oliver:** Hear, hear.

**Senator Joyal:** If one were to do a biased reading of Bill C-4, it would show that the process is top-down. We want the reverse system. Reading Bill C-4 as it stands could make it more difficult for someone who would like essentially apply the law, the law, the law.

**Senator Bryden:** Honourable senators, I wish to be categorically clear as to whether Senator Joyal is supporting my amendment.

**Senator Joyal:** In response to the honourable senator, unless we get from the Leader of the Government in the Senate today a commitment that the government is ready to come forward with a draft rule that would be added to rule 86, it would be better to ensure it. In other words, the system would be tighter under the proposal of Senator Bryden.

**Senator Bryden:** Honourable senators, we have had a number of commitments from the Leader of the Government in the Senate. Is that a commitment that needs to be in writing by someone? If so, by whom? We will vote in a little over an hour.

**Senator Comeau:** We have been denied

**Senator Bryden:** I do not know where we move with a commitment. Does that now say to the people here that, depending on the type of commitment that Senator Austin makes, all honourable senators should support the amendment?

• (1620)

**Senator Joyal:** Honourable senators, I have expressed an approach that would answer some of the major concerns that many honourable senators have with the appointment process. Many of us who have spoken in this chamber have expressed those kinds of concerns. Senator Bryden had those concerns and came forward with an amendment to answer them.

I have listened and watched the debate closely. As much as I can relate Senator Austin to any form of commitment, I found it in his answer to Senator Comeau last week. I will repeat what appears in Hansard:

However, I believe the undertaking is important and should be followed from time to time.

I would also say that what does not change from one Parliament to another is the existence of the rules.

That is not a commitment to bring forward a draft rule enshrining the transparent election process I have just described. As a lawyer and a common sense person, I cannot draw that conclusion.

I appeal to Senator Austin to consider that process. I think this is one way of alleviating our concern, which is within the capacity of this house to do, as much as it can fit with Bill C-4. We cannot contradict by our rules what is already plainly stated in the bill. There are limits to what we can do in the rules. A rule of the Senate cannot contradict the bill. The bill is the bill. The bill is the law. We have some limits to what we can do in the rules. There is no question in my mind that with Senator Bryden's proposal, we can write rules that would fit perfectly, tailor-cut for his proposal.

In the context of Senator Austin's sponsorship of Bill C-4, there are limits to what we can do to maintain the letter and the law of the bill as it relates to the appointment of the ethics officer.

**Senator Austin:** Honourable senators, again, Senator Joyal has directly addressed me and I would like to respond in this fashion. First, as is well known in this chamber, I see no independence for the ethics person if that person is solely the creature of this chamber. I wish to make that point to Senator Joyal again.

Second, Senator Joyal refers to whether the government would bring in a draft rule. I would be most reluctant, as a member of this chamber, to see the government, whether I am the leader or not, bring in anything that carved any place in our rules.

**Senator Smith:** Absolutely.

**Senator Austin:** That is the responsibility of every one of us.

By way of a counterpart to Senator Joyal comments — which is only as good as anything else a government says in this chamber, meaning that one can accept it or not accept it — is that the government would not interfere in any way, shape or form with the creation of whatever rule this chamber wanted to craft to deal with the recruitment or appointment of an officer. If the Senate had a procedure that it wished to follow, then it would take the place of the undertaking.

Senator Joyal well knows. I worked with him to put in place rules with respect to the clarity bill after the provisions that we sought in the statute were not there. He took the lead and the initiative and showed his creativity.



I believe that our rule book is open and it is the business of everyone of us to decide, but not the government, what should be in our rules.

**The Hon. the Speaker:** I will see Senator Joyal, but I just wish to draw to the attention of honourable senators that, by order, we will vote at 5 p.m. I have three more speakers on my list: Senators Comeau, Trenholme Counsell and Di Nino. If they take their full 15 minutes, we will not see them all. I just wanted to inform honourable senators of that fact.

**Senator Joyal:** In a nutshell, the honourable senators know that when we received this bill, it came with a draft code of conduct, which was to be included in the rules. This is a draft rule. It is a potential description of what would be in the rules. We referred that draft code of conduct to the Rules Committee. We have been labouring for the last two years on those draft rules.

There are limits to what the government may wish to bring forward, but when the objective is clear, there is a possibility for us to do the work.

**Hon. Gerald J. Comeau:** Honourable senators, my remarks will focus mainly of the impact of the bill on the Senate and not on what might happen, even though most of the provisions that we state would apply to the House of Commons as well.

First, I wish to put on the record that I fully support the nomination of an independent ethics person. I do not like the word "officer"; I always get the impression that I have to pull out my licence and registration and salute. However, I will call him the officer because that is what the bill says.

We must assure Canadians that we are acting in their best interests. If the appointment of an ethics officer addresses that concern, then we should be heading in that direction.

I wish to remind honourable senators, and we tend to forget, that the Prime Minister will appoint the Senate officer. The Prime Minister will fire or renew the contract of the Senate officer. The Prime Minister sets the salary and determines increases or decreases, as the case may be.

The appointee has full control over his or her budget and can hire agents to carry out the work of the office as the officer sees fit. The appointee is empowered to set up his own police force — the way I read it is that the Prime Minister is in the process of setting up his own police force to control members of Parliament, both in this chamber and in the other chamber. In addition to his own members of Parliament, which he now controls quite well, he will now extend that control over opposition members. The executive, in effect, will control Parliament, rather than the other way around, as was envisaged under our British parliamentary system.

The officer will submit a budget to the Speaker of the Senate, another appointee of the Prime Minister who deals directly with the Treasury Board. This is a major departure from the practice whereby the Internal Economy Committee deals with Senate budgets, rather than the Speaker.

On the question of the Speaker, I have every confidence in the Speaker that we have today. As a matter of fact, if we were to hold an election today, I think I would vote for the current Speaker. However, we must make a distinction between the position and the incumbent. The present Speaker may not always be there. We may not always have the confidence that we now have in the present incumbent.

The officer is given the privileges and immunities of the Senate. This is the interesting point: All senators should be aware that the Leader of the Government in the Senate is the only senator in this chamber with real, actual power who will be exempted from this bill. He is not addressed in this bill.

**Senator Austin:** That is not true. If the bill passes, I would be subject to the Senate ethics officer in my role as a senator and also to the Ethics Counsellor in my role as a minister.

**Senator Comeau:** I will reread proposed section 20.5(4). If I have not interpreted it well, I will reread it.

The officers and staff of the ethics officer will have immunity from criminal or civil proceedings in the course of their work.

Remember Ken Starr in the U.S.— the professional prosecutor and his team of investigators who went after the then President of the United States and spent untold dollars and years to go after one President. Could that happen in Canada? Think about it. If you have the power, would you not use it?

The ethics officer submits his report to the Speaker of the Senate — not to the Senate, the Speaker. Again, a prime-ministerial appointee will get the reports of the ethics officer.

The Leader of the Government in the Senate, in a previous session of Parliament, admitted that there was no incidence, in her knowledge, of the need for an ethics officer.

• (1630)

The current leader, in his speech, referred to "perception" no fewer than four times in his opening comments on his speech. Senator Andreychuk referred to this, that we are in fact responding to a public perception of a problem rather than to a real problem. It would appear that the Leader of the Government in the Senate does admit to this. We are telling Canadians on the one hand that there is no problem but on the other that, since they believe there is a problem, we will fix that perceived problem.

In fact, the very people who have engaged in recent months and years in acts of corruption and money laundering are not subject to the provisions of this proposed legislation. I would ask honourable senators to find out where the real power is in Ottawa. Is it the backbench member of Parliament or the backbench senator? No. If honourable senators want to follow the corruption where it has been happening, follow the ministers, the senior bureaucrats and the heads of Crown corporations. In fact, there is a nice little trail to follow. Follow the lobbyists and they will lead directly to where the real power lies in Ottawa.

Imagine yourselves on the opposition side of this house — our number are becoming depleted: we are now down to less than two dozen versus roughly 80 on the other side. Imagine yourselves facing a massive majority of docile and adoring cheerleaders to the sitting Prime Minister, all waiting for their trips abroad on parliamentary associations, a nicer office, maybe, for behaving well and voting accordingly, or possibly the chair of a committee. The opposition is right not to trust the good intentions of the Prime Minister. The opposition is here to be vigilant and to question the actions that could reduce the value of this chamber. I think members on the government side should be doing the same, but they seem to be lax in this.

Again, picture yourself in opposition and being presented with a bill that authorizes the Prime Minister to appoint whomever he or she wants. It could be a Sheila Fraser, one in which we all have confidence; however, it could be a lap dog, a toady, who caters to the Prime Minister. With this bill, continue to imagine what a prime ministerial crony, beholden to his master, could do with access to your personal files, the files of your spouse, possibly, depending on the rules, the files of your family. Continue to picture the scenario of a prime ministerial crony with complete immunity — say a Jean Carle or an Allan Rock — let loose on some lowly opposition senator.

Any honourable senator here could eventually find himself on the opposition side and may criticize the Prime Minister of the day or his government. Will opposition members dare question the Prime Minister's appointee — an appointee whose job, salary and reappointment is in the hands of the Prime Minister. This is the potential of the bill. Some with scoff that this could not happen.

Honourable senators, did we imagine that the Department of Justice, under the direction of Allan Rock, would send a letter to a Swiss authority alleging that a former Prime Minister had engaged in criminal activities and would enlist the help of the RCMP to pursue the matter for years — on the hearsay of a confidential informer, Stevie Cameron, who had a hate on for Brian Mulroney like you would not believe.

Honourable senators, did we imagine that our national police force would raid the home of journalist Juliet O'Neill, invading her most private and personal domain, her home, rummaging through her underwear drawers, among other things.

Did we imagine that we would see the day that a Canadian, Maher Arar —

I hear the groans of the cheering crowd across the way, those waiting for a nicer office, those waiting for those nice little trips, the cheerleaders, the adoring fans of the sitting Prime Minister.

**Some Hon. Senators:** Oh, oh.

**Senator Comeau:** Did we imagine that these adoring fans would be a witness to Maher Arar winding up in the Syrian torture

chamber based on information provided by Canadian security authorities?

Did we imagine that the national police force would join with the Prime Minister's appointee to try to crush François Beaudoin, the president of the Federal Business Development Bank, would attempt to ruin his fine reputation because he was would not bend to the Prime Minister of the day?

Remember the actions in this very chamber last fall when the chair of the Rules Committee would not wait for opposition members — who had other duties — to attend the committee meeting.

This bill is designed to declaw and neuter the opposition at a time in history when Canadians' personal freedoms are under increasing attack and our nations finances need increasing scrutiny.

The squander of billions of dollars in the HRDC fiasco, billions on the gun registry, hundreds of millions handed over to Liberal-friendly firms in the sponsorship scandal, and the list goes on.

As we celebrate the 200th anniversary of the birth of Joseph Howe, the father of responsible government in Canada, I wonder how he would react?

Honourable Senator Cordy, a fine Nova Scotian, how would Joseph Howe react to the intrusion of the executive in the affairs of the assembly of parliamentarians?

We are going from a culture of corruption to a culture of intimidation, the bullying of the opposition. The government is playing with brinkmanship. There is no moral compass any more. Absolute power, as we are noting now under this bill, corrupts absolutely. Is it any wonder why the electorate is giving up on us?

What do we call a prime ministerial appointee who has immunity from prosecution and access to our personal files? We call that officer "sir." What do we call a Prime Minister who holds this kind of power? We call him "Your Royal Highness."

The sound of jackboots becomes louder whenever the opposition is silent. Others have stood up to the intimidation, François Beaudoin, Brian Mulroney and Maher Arar.

Some honourable senators across the way are laughing at an individual who spent a year in a Syrian jail.

**Some Hon. Senators:** No, no.

**Senator Comeau:** Laughing. This is the kind of backbenchers we now have in this chamber. The kind of backbenchers who saw

**The Hon. the Speaker:** Order, honourable senators. Senator Comeau has the floor.



**Senator Comeau:** These are the kind of people who cheered on when Allan Rock used all the powers of the state to go after Brian Mulrooney. These individuals in the background cannot wait for the nice little offices, the trips or the chairmanships of committee. Good luck, if this is what you are all about.

Would a backbencher MP or senator dare to stand up to a Senate ethics officer belonging to the Prime Minister with access to our private files and immunity? I would think not. Not the group I am seeing in back of me now.

History has taught us that such private police forces can be dangerous. The true measure of a democracy is not whether it votes; the true measure of a democracy is the respect and courtesy accorded to minorities in opposing views. This side of the chamber has been trying to get across to that great big government majority that what it needs to do is consent, not consult, with the leader of our side, an amendment that would say that we will consent in the law, not through some vague undertaking that may or may not be respected in the future. Consent.

I have spent 18 years on Parliament Hill. I have respect. I have sat on the government side and I have sat on the opposition side. The government side, with your vast majority and showing muscle and clout, in beating up on the minority, in not providing to the minority the kind of consent that would be needed in a bill such as the one before us today, is evidence that this chamber is going down the tube.

We are not doing Parliament any favours by responding in this negative fashion to the perception of a problem. Let us deal with the reality of the problem. One way of doing that is by seeking the consent of the leader on this side, not consultation, but consent. Honourable senators opposite would see this side of the chamber approach this bill in a different fashion. We do not want an undertaking; we want it in the bill. Put it in writing.

• (1640)

**Hon. Marilyn Trenholme Counsell:** Honourable senators, I fear I will be very dull as compared with Senator Comeau. His was a very colourful act.

I am proud to offer a few very personal remarks in support of Bill C-4, without amendment, and without fear of any negative consequences for myself or for the Senate.

I believe this bill is an important tool, hopefully an evolving one, in the challenge we face to reassure, often even to convince, Canadians that the women and men in the Senate of Canada serve their country with devotion and with the highest ideals.

I sit here each day with fellow senators for whom I have great respect. I have great respect for the dedication of so many of my colleagues to the great challenges facing Canadian society. These

are challenges that touch the entire spectrum of human existence within our great country and around the globe. I have found here a vastness of talent, experience, wisdom and vision unparalleled in my own journey.

Yet, too many of our fellow Canadians think otherwise about Canada's Senate and Canada's senators. The failure of Bill C-4 to pass in 2003 added to their cynicism about an institution of fundamental value to our Canadian system of democracy, a system that must always be a model for the world.

Bill C-4 strengthens this system. It will strengthen the public perception of the Senate. It will strengthen our own resolve to serve the Senate of Canada with the highest ethical standards.

By voting today in favour of Bill C-4, without amendment, we will be saying to our fellow Canadians that their senators want nothing less than full transparency and full accountability in all that they do for Canada and its citizens.

**Hon. Consiglio Di Nino:** Honourable senators, I rise in support of Senator Bryden's amendment to Bill C-4 and to add a few words in support of Senator Joyal's exceptional speech on this issue.

For me, real political leadership means governance that is totally transparent, above suspicion and for the benefit of the nation and its citizens. It is exemplary leadership in the most positive manner. Each time a scandal occurs, big or small, all of us in both Houses suffer the consequences. All our reputations are tarnished and the institutions of Parliament suffer. The consequences to our democratic system are enormous. The trust of Canadians in Parliament and parliamentarians is soiled. A black cloud hangs over Parliament and its members. This cloud of suspicion, distrust and contempt casts doubts on all our reputations.

I also believe that if Canadians perceive us as less than honest or see us, rightly or wrongly, to be favouring our personal interests or the interests of our friends and families, some will interpret this as a message that it is okay to bend or even break the rules for their own personal benefit at the expense of others.

We who have been given the mandate to govern the affairs of a country and to protect the interest of Canadians are subject to high standards, and rightly so. I therefore agree that the proper conduct of parliamentarians needs to be under independent and appropriate scrutiny. The creation of an ethics commissioner for the other place and an ethics officer for the Senate is a good first step, even though most parliamentarians in both Houses have neither the authority nor the opportunity to influence situations like "Adscam" or similar misuses and abuses of power.

As has been stated already, however, perception is reality, particularly in politics. I am sure all honourable senators agree with my sentiments.

What this debate is about, though, is the independence of the Senate. The Fathers of Confederation created the Senate with all its powers and authorities as an independent body to act as a check and balance to the other place, the elected chamber. It did so to provide an opportunity for analysis, review and, where necessary, amendments to laws or rules that govern our nation.

Over the decades, in particular in the last 20 or so years, the independence of the Senate has been subjected to attacks by the other place, the media and, indeed, by Canadians. We have on sober second thought and our role as representatives of the regions and minority interests.

This debate on Bill C-4 is not about ethics or the behaviour of senators. We all agree that transparent, effective and appropriate rules governing our conduct need to be established, and we have some already.

This debate is about the even further erosion of our independence. We are constitutionally an independent and effective House of Parliament responsible to the Constitution and to the citizens of Canada. In my opinion, if enacted without amendment, Bill C-4 would further erode the Senate's independence.

The ethics officer will be appointed by the Governor in Council, which office will also set his or her compensation. The officer will be removable by the Governor in Council. The Governor in Council will appoint an interim ethics officer. In short, the ethics officer will owe his or her allegiance primarily to the Governor in Council.

By all means, let us establish an ethics officer with the strongest possible mandate, with appropriate resources and the necessary independence, who reports to this chamber. Let us do it ourselves. The Senate should create and establish the office without further erosion of our power and authority. If we are to discharge effectively our responsibilities under the Constitution, we must cease to be influenced by the PMO, the other place or any outside body. Our responsibility is to the people of Canada and not the PMO.

Therefore, in my opinion, this bill is fundamentally flawed at a constitutional level.

Separate from this core issue, I must raise a serious technical problem with the bill that demands immediate attention. As pointed out publicly by Senator Lynch-Staunton, clause 5 of the bill would remove the office of the ethics commissioner from institutions subject to the provisions of the Access to Information Act. In effect, this would mean that information relating to the ethics commissioner's office itself would not be subject to the provisions of the Access to Information Act, as well as the non-personal information in the purview of the ethics commissioner of approximately 2,500 public office-holders.

The Prime Minister has promised greater government openness and transparency. He has even asked the Treasury Board to examine an extension of the Access to Information Act to all Crown corporations. In reality, the government is now removing the ethics commissioner's office from the act.

The Prime Minister can demonstrate his commitment to the principles of access to information by bringing in an amendment that would delete this offending clause from Bill C-4.

At the Rules Committee on March 23, 2004, Senator Austin characterized this problem with clause 5 as not material to the bill. In contrast, I believe that allowing the public access to information on how the ethics commissioner runs his office is at the heart of an open and democratic government. I believe I speak for all senators on this side, and likely for many opposite as well, when I urge the government to uphold the principles of greater transparency and openness by considering amendments to this bill to ensure that the ethics commissioner is subject to the Access to Information Act.

Honourable senators, I will vote against this bill because it is fundamentally flawed both constitutionally and technically.

**Hon. Terry Stratton:** Honourable senators, I would like to finish what I started. Hopefully, I have 10 minutes remaining.

The other day I started my comments by complimenting Senator Bryden on the work he has done. However, he was not in the chamber at the time. I would like to extend those compliments to him today because he has done what I think is a superb job.

Based on his amendment, what we do not want to have is the creation of a situation that is already in existence whereby we have an Ethics Counsellor who is appointed by the Prime Minister. This is not a knock against the individual, but there is a public's perception of the present Ethics Counsellor, Howard Wilson, who is not held in high esteem. My fear or worry, and I think that of everyone here, would be that, in effect, that is what we will be creating here today.

• (1650)

As opposed to that, you have the government's position that, if they allow the Senate to appoint that individual, then they will be creating a position whereby it will be a creature of the Senate. In other words, it raises the same problem, that of perception being everything and that the public will not accept that because the appointee would be a creature of this chamber. Those are the two positions.

It was interesting to hear Senator Joyal put forward the proposition that the positions should be posted publicly so that people could apply for such a position. That is wonderful concept, but to whom will those applications be sent? Who will vet those applications, and who will make the decision? The answers to those questions are the crux of the matter. The process of vetting those applications must be transparent. It is important that the public be aware that the Prime Minister or the Senate are not making the selection from any list. It must be a partially public



system, as it is in the appointment of judges. The system that we put in when we were in power specifies that the chief justice and two lay people in each province must be involved. Lawyers could apply and be vetted by the committee in his or her province. The application of such a system is desperately needed in this instance. I do not think it should be in the control of the government, particularly if we have a Prime Minister who wants to overcome the democratic deficit, as he calls it. I could see another Howard Wilson situation arising.

Mr. Joseph Maingot, a witness who appeared before our Standing Committee on Rules, Procedures and the Rights of Parliament on Tuesday, March 16 commenced his testimony by saying:

From that, I will just start off by saying that dealing with privilege as a whole, Blackstone's commentaries, and going back 300 or 400 years, he said: "The whole of the law and custom of Parliament has its origin from this one maxim: 'that whatever matter arises concerning either House of Parliament ought to be examined, discussed and abridged in that House to which it relates, and not elsewhere.'"

In other words, this chamber makes its own decisions with respect to its governance and so does the House of Commons.

I then went on to ask him a question which I prefaced as follows:

The question really boils down to the appointment. Clause 20.1 of the bill, reads, in part: "The Governor in Council shall, by commission under the Great Seal, appoint a Senate Ethics Officer." The Governor in Council is, in fact, the Prime Minister of the House of Commons. He is then appointing the ethics officer of this chamber.

If you go by Great Britain's history, the two chambers are supposed to be independent. I should like you to comment on the importance of the independence of the two chambers and whether or not you feel there is a conflict in the Prime Minister appointing an ethics officer to this chamber rather than this chamber itself selecting and appointing an ethics officer.

I would point out to Senator Austin that Mr. Maingot was very succinct. He said, "Obviously, yes."

I would then go on to the day when our committee heard witnesses. That day, four witnesses appeared before our committee: Professor Fabien Gélinas from McGill University; Professor Denis Saint-Martin from the University of Montreal; Professor Sharon Sutherland; and Professor Ian Greene. Now, I would like to, in effect, go to the question I asked along this line of examination and go back to my question to the previous witness, Mr. Maingot. I said:

This is the first small step in an evolution. If this is an evolutionary process, would it not be better for the Senate to appoint its own ethics officer, so that if it wanted to change

and improve the transparency of that position, for example, it would be far easier with that approach, rather than having to go to the Prime Minister and say, "By the way, we want to change this."?

Mr. Saint-Martin responded by saying:

That is a reasonable opinion with which I would agree. You are absolutely right to say that this is an evolving issue. It is an evolutionary process. Again, from the cases I have studied, we learn by doing. It is always evolving.

In summary, what I have been trying to get at, and pointing out in the evidence given by those witnesses is that they agree that the two chambers should be separate and that the decisions as to the selection of that ethics officer should be with this chamber.

As to the transparency, I firmly believe that we have not gone far enough. I agree with Senator Joyal, that people should apply, it should be posted, but the vetting must, as well, be seen to be transparent so that the public have a clear understanding and a clear knowledge that it is indeed transparent and acceptable to them. Otherwise, we are again into that realm of dealing with ourselves if we appoint, or the government appoints, a Howard Wilson. We have had enough Howard Wilsons. We have had enough of the Radwanskis of this world and we need to move on from that. We are, after all, in a new century. Thank you.

[Translation]

**Hon. Fernand Robichaud:** Honourable senators, I believe the time has come to vote on this bill. First, we can certainly say that we have reviewed the bill thoroughly. All the senators had an opportunity to express their point of view.

Second, as though we did not have enough time to review this bill, we have reviewed it again. All the senators, both those who supported the bill and those who wanted to see changes, took just as much care the second time around.

I believe it is a good bill. Of course, we can but aspire to perfection. However, if senators notice later on that changes should be made, they could certainly propose them.

Honourable senators, I do not have enough time to say everything I would like to say in the minute remaining, but we can say that the debate was healthy. The honourable senators, both those who spoke and those who listened, had an opportunity to express their views. We respected everyone's opinions. I will conclude by saying that it is time to vote on this bill.

• (1700)

[English]

**The Hon. the Speaker:** Honourable senators, it is five o'clock. Pursuant to the order adopted by the Senate on March 26, 2004, I must interrupt the proceedings for the purpose of putting all questions necessary to dispose of the third reading of Bill C-4.

The question is as follows: It was moved by the Honourable Senator Bryden, seconded by Honourable Senator Cools, that the bill be not now read the third time, but that it be amended —

**An Hon. Senator:** Dispense.

**The Hon. the Speaker:** I will dispense.

Those in favour of the motion in amendment will please say "yea."

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Those opposed to the motion in amendment will please say "nay."

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** I believe the "nays" have it.

*And two honourable senators having risen:*

**The Hon. the Speaker:** Pursuant to the order of the house, the vote will take place at 5:30 p.m. Call in the senators.

• (1730)

Motion in amendment negated on the following division:

#### YEAS THE HONOURABLE SENATORS

Adams	Keon
Andreychuk	Kinsella
Angus	LeBreton
Atkins	Lynch-Staunton
Beaudoin	Meighen
Biron	Merchant
Bryden	Moore
Cochrane	Nolin
Comeau	Oliver
Cools	Rivest
Corbin	Robertson
Di Nino	Sparrow
Eyton	St. Germain
Forrestall	Stratton
Gustafson	Tkachuk—31
Joyal	

#### NAYS THE HONOURABLE SENATORS

Austin	LaPierre
Bacon	Lapointe
Callbeck	Lawson
Carstairs	Léger
Chaput	Losier-Cool
Christensen	Maheu
Cook	Mahovlich
Cordy	Massicotte
Day	Mercer
De Bané	Morin
Downe	Munson
Fairbairn	Pearson
Ferretti Barth	Pépin
Finnerty	Phalen

Fitzpatrick  
Fraser  
Furey  
Gauthier  
Gill  
Graham  
Harb  
Hays  
Hubley  
Jaffer  
Kirby  
Kroft

Poulin  
Poy  
Prud'homme  
Ringuelette  
Robichaud  
Roche  
Rompkey  
Sibbeston  
Smith  
Trenholme Counsell  
Watt—51

#### ABSTENTIONS THE HONOURABLE SENATORS

Banks

Lavigne--2

**The Hon. the Speaker:** Honourable senators, the question is now on the main motion. It was moved by the Honourable Senator Austin, seconded by the Honourable Senator Rompkey, that this bill be read the third time.

Those honourable senators in favour of the motion will please say "yea."

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Those honourable senators opposed to the motion will please say "nay."

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** I believe the "yeas" have it, on division.

**Hon. Lowell Murray:** Honourable senators, I did not vote because I was paired.

Motion agreed to and bill read third time and passed.

#### APPROPRIATION BILL NO. 1, 2004-05

#### THIRD READING—DEBATE SUSPENDED

**Hon. Joseph A. Day** moved third reading of Bill C-27, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005.

He said: Honourable senators, Bill C-27, which is before you at this time, is the interim supply bill based on the Estimates that were made available to us some time ago for this fiscal year, commencing April 1, 2004 to March 31, 2005. Full supply will take place later in the year. In all likelihood, we will receive the documentation in relation to the final portion of the supply in November-December of this year.



Honourable senators will have seen the report, given that these Estimates were studied some time ago by the Standing Senate Committee on National Finance. The report was filed. Honourable senators will recall the debate we had on that report before it was adopted.

The normal process is that when the supply bill, Appropriation Bill No. 1, which is now before you, arrives in this chamber, we typically would rely on the study that we had previously done and the filed report. Honourable senators will recall that the Senate chamber felt it prudent to refer this bill to the committee, which committee studied the bill this morning. Bill C-27 was reported back earlier this day without amendment and without comment.

Honourable senators, I do not propose to go through each page of the Estimates.

**Senator Forrestall:** Let us hope not.

• (1740)

**Senator Day:** I did think that it might be of interest to honourable senators to know that, in the Main Estimates, under the heading "Parliament," Item No. 21, there is, for the Senate, \$73 million, and for the House of Commons —

**The Hon. the Speaker:** Senator Day, I am sorry to interrupt. I am interrupting to draw to the attention of honourable senators that the chamber is very noisy. If those of you having conversations could carry them on outside of the chamber, it would be much easier to hear Senator Day.

**Senator Day:** Honourable senators, I was referring to the heading under Parliament. I thought some honourable senators would be interested in knowing the totals in the Main Estimates for the Senate versus the House of Commons and, indeed, for the Library of Parliament. For the Senate, under Main Estimates, the figure is \$73 million; for the House of Commons, \$346 million; for the Library of Parliament, \$30 million. Honourable senators will see that we continue to be a very frugal and prudent chamber of sober second thought.

Honourable senators, the major reorganization that took place in December has resulted in some delays in the preparation of the normal documentation that would flow. The planning and priorities documentation will be forthcoming. That is Part III of the Estimates, but it has not as yet been prepared.

The good news, honourable senators, is that your committee remains seized of the work to be done on your behalf with respect to Main Estimates. We will continue, under the able leadership of Senator Murray, to study the Main Estimates throughout the year. We anticipate that we will have studied and reported on the Estimates prior to the next full supply bill, which will be arriving in the fall.

The only other item that I should like to bring to the attention of honourable senators is the public debt charges. The \$183 billion for this fiscal year includes \$147 billion in program

spending, which is made up of both votable spending and spending that is already approved under other legislation and the public debt charges. We have very low interest rates, and we are still spending \$36 billion to pay the interest on our outstanding public debt. It is important for honourable senators to keep that in mind, even in the good times. It is important to recognize the potential for that number to grow in a difficult economic time when interest rates are higher.

Honourable senators, this supply bill is asking for supply in different categories that appear in the back of the supply bill, either nine-twelfths or ten-twelfths of the year. That is one of the items we discussed this morning. The total amount that we are voting on at this time is \$50.1 billion, and I would urge honourable senators to support this bill.

**Hon. Anne C. Cools:** I have just one question. The absence of Part III is quite worrisome, and I hope that this does not become a habit.

In addition, honourable senators, normally the amount that comes forward in the interim supply bill is three-twelfths of the total. In this instance, by my reckoning, it seems they are asking for eight-twelfths or nine-twelfths, and right through to the end of December. Understanding that we are obviously going into an election period, I would have not frowned very much if the amount was, say, to September. I do find December somewhat worrisome.

Honourable senators, my question to Senator Day, the Deputy Chair of the National Finance Committee, is in respect of the firearms registry program. As the honourable senator will know, the phenomenon of the continuing appropriation to the firearms registry is continuing to be troublesome. This Bill C-27 for the firearms registry program is on the Main Estimates. Previously, the government had been bringing its request forward in the Supplementary Estimates. However, these are the Main Estimates. I wonder if Senator Day could tell this chamber, first, if there is a sum in the Main Estimates in this bill for the firearms program and, second, what is that quantum?

**Senator Day:** Honourable senators, I am looking for the firearms item. If my friend could refer to the page for me, I would be pleased to confirm it. I have not found it yet, but I am still looking.

**Senator Nolin:** Justice Canada.

**Senator Forrestall:** Right after Sea King replacement.

**Senator Day:** Thank you.

**Senator Cools:** It is not the Department of Justice.

**The Hon. the Speaker:** So that we know where we are, Senator Day is trying to find information that Senator Cools asked him for, although he has taken his seat. I will see Senator Kinsella next, as soon as Senator Day has disposed of this question.

**Senator Forrestall:** Has he not read it?

**Senator Cools:** For the information of honourable senators, the firearms registry was moved from the Department of Justice a long time ago — it is now a year — and was put over to the Solicitor General. The Solicitor General's portfolio has also been reorganized. This is somewhat of an oddity. It is now the Ministry of Public Safety. We are even losing the language of the Solicitor General as a department, which is a serious matter.

**Senator Forrestall:** They are quite adept at hiding.

**Senator Cools:** I do not know whose Estimates they are. You see, honourable senators, I am no longer a member of the Standing Senate Committee on National Finance. If I were, I have no doubt that I would be on top of this subject.

**The Hon. the Speaker:** I think Senator Day has the answer.

**Senator Cools:** I was just trying to fill in.

**Senator Day:** I thank the honourable senator for giving us the opportunity to look up the answer in this volume. In the Main Estimates, page 24-8, under the Solicitor General, Public Safety and Emergency Preparedness, Canadian Firearms Centre, Program by Business Lines, the operating budget for the 2004-05 Main Estimates is \$85.768 million and transfer payments of \$14.5 million. The transfer payments would go to the various provinces to help them administer the program.

**Senator Cools:** I thank Senator Day for his capacity to go ruffle through those pages and find things. Senator Day is muttering under his breath that I trained him well. I thank him very much.

Honourable senators, if I might be permitted a few minutes, I think it is important for us to understand that this particular program continues to be very troubling and troublesome for us, and particularly in what we would call rural Canada. The current minister who is looking at the review — I believe she is an associate minister — is Albina Guarnieri. I have been supporting her and trying to help her as much as possible. I would hope that in the next several months the government, knowing the troublesome nature of this program, will be able to find some sort of genuine resolution to these problems that have been bothering and dogging Canadians.

• (17:50)

Honourable senators, it has been some time since Bill C-68 was passed. I recall the circumstances with great clarity and vividness. I remember a situation exactly as today, where many of us, including Senators Watt, Adams and Sparrow, attempted to move an amendment that we thought would have greatly alleviated not only the problems in the bill but also some of the political distress in the country. We were not successful. As life would have it, the then minister is no longer with us. I should like to submit to this chamber that had that minister listened to us and let the amendment pass, he might still be in business in Parliament and in the ministry today. I just wanted to say that.

In addition to that, honourable senators — and, for me, this is impromptu; I was sitting here as the honourable senator proposed the motion for the supply bill.

I should like to return to the premise on which that bill was proposed to us. In today's community, it may sound laughable, but that bill was presented to us by then Minister Rock as a means of protecting women from all these bad, terrible men. It was premised on a foundation that I totally repudiate, namely, that women are perfectly virtuous, that all virtue is theirs, and men, after all, are just evil mongers and violent creatures always seeking to hurt or to damage women, the premise, honourable senators, that women are, somehow or another, morally superior to men or that men, somehow or the other, are morally inferior to women, and if not morally inferior, at least morally defective.

Honourable senators, just as this premise false has wreaked havoc and left a significant amount of wreckage behind in this country, I would submit that if we continue, or if this government continues to move on those premises, particularly in the area of divorce legislation and criminal laws, and so on, we will continue to meet with failure in these respects.

I am encouraged that the current minister is making a genuine effort to resolve some of these difficulties, and I look forward with interest to her results.

I see Senator Day sort of nodding and smiling at me. However, honourable senators, quite often, when we are making legislation, we forget the nature of this country.

Honourable senators, I am always quick to say that the majority of people in this country are not professionals, lawyers and doctors. The majority of people in this country are labourers, particularly the men. They are construction workers, carpenters, coal miners, forestry workers, and so on.

**An Hon. Senator:** Backbenchers!

**Senator Cools:** We forget this. Many of these individuals have looked to nature and to the outdoors as a means of recreation. Hunting, target shooting and target practice has been very important to them.

Honourable senators, frequently, in the name of social engineering, we have told those people that we think that their lifestyle is, somehow or the other, questionable or undesirable.

I have here, honourable senators, a newspaper article from the *National Post* of March 4, 2004. The headline is as follows: "Gun registry violates native rights, Ontario judge rules: Charges for illegal possession of weapons thrown out." Honourable senators should understand that, at the end of the day, this will be the natural order for our failed firearms registry and on the \$2 billion that it will cost. To this day, not a government minister has stood on the floor of this chamber and given one ounce of explanation as to why that expense. We are talking about billions of dollars.



I sat on the Standing Senate Committee on National Finance, and since 1996, immediately after the bill was passed, our committee members — not always myself — systematically asked questions but systematically never got an answer. Honourable senators, that is the democratic deficit, namely, the failure of this chamber and the failure of the House of Commons to hold governments accountable for the expenditure of dollars.

Honourable senators, remember: Men and women are equal. Men and women are equally capable of doing good things and equally capable of doing bad things. Virtue, altruism and morality are not gender specific.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I understand that I have 45 minutes.

**The Hon. the Speaker:** That is correct.

**Senator Kinsella:** Therefore, a decision would have to be made not to see the clock — which would require unanimous consent — or we must rise at six o'clock and come back at eight o'clock.

I will begin by pointing out that \$50 billion in my neck of the woods is not a small amount of change. Therefore, my colleague, Senator Day, would understand that it is hard for most of us to get our mind around how much money \$50 billion actually is.

I wish to congratulate our colleagues who serve on the National Finance Committee for having studied this bill this morning. If all honourable senators read the committee transcript from this morning, they will discover that it was well worth our decision as a chamber to send this bill to committee, under these unusual circumstances, because it is not usual, as Senator Cools and others have pointed out, that supply is sought for nine twelfths of the year.

At second reading, our distinguished chair of the committee pointed out the rapidity with which the matter was dealt with in the other place — namely, the chamber that is supposed to be guarding the purse. It has fallen on the shoulders of honourable senators to do the work that ought to have been done in the other place.

I wish to make some comments and speak to some of the issues that were raised in committee this morning. I apologize that it is late in the day for us to be doing this, but we have to do what we have to do.

In commenting on the bill, I should would like to focus specifically on the Main Estimates, incomplete as everyone has recognized they are. The thesis that I wish to advance is that there has been a fair amount of rhetoric around fiscal restraint. However, on closer examination, what do we find? We find that

there is a significant increase in spending. These Main Estimates are for some \$16 billion, which is 10 per cent higher than last year's Main Estimates. These are interim Main Estimates; we do not have the full picture. However, honourable senators, even with what we have before us, it is a 10 per cent increase over the Main Estimates of last year, some \$16 billion.

If you subtract debt service charges, you will find that the estimates for program spending are up by 13 per cent over last year's levels.

• (1800)

**The Hon. the Speaker:** I am sorry to interrupt, but as Senator Kinsella himself observed, it is now six o'clock. I am obliged to leave the Chair until eight o'clock when we will resume, unless it is your wish, honourable senators, to not see the clock?

Is it agreed not to see the clock?

**Some Hon. Senators:** Agreed.

**Senator Cools:** No, it is not.

**The Hon. the Speaker:** Agreement is being withheld by Senator Cools. You are saying no?

**Senator Cools:** I was about to tell you what I am trying to say. I would be quite happy to give leave for Senator Kinsella to complete his speech and so that the vote on the supply bill can be completed but not beyond that. I do not know how we can negotiate that point.

**The Hon. the Speaker:** I think that is a no, Senator Cools.

Senator Kinsella?

**Senator Kinsella:** I am prepared to turn to my abbreviated version of my remarks, which will take just a couple more minutes. I would concur with the suggestion by Senator Cools that that would conclude government business. In other words, we would then rise for the day and continue tomorrow.

**The Hon. the Speaker:** That would require unanimous consent. Is it agreed, honourable senators, that at the upon our disposition of Bill C-27, which will be concluded by a vote, all remaining matters stand on the Order Paper until the next sitting?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** No.

**The Hon. the Speaker:** I come back to the question. Do we see the clock or adjourn until eight o'clock?

**Senator Cools:** We see the clock.

**The Hon. the Speaker:** We must see the clock. It takes only one dissenting voice.

You wanted to speak, Senator Comeau?

## FISHERIES AND OCEANS

COMMITTEE AUTHORIZED TO MEET  
DURING SITTING OF THE SENATE

**Hon. Gerald J. Comeau:** Honourable senators, given that we are going to see the clock, I would ask leave of the Senate to allow the Standing Senate Committee on Fisheries and Oceans to sit at seven o'clock, even though the Senate may be sitting. This evening we will be dealing with an extremely important subject regarding Nunavut.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

Motion agreed to.

## BUSINESS OF THE SENATE

**The Hon. the Speaker:** The sitting will resume at eight o'clock.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** If I understood correctly, honourable senators it was Senator Morin who withheld leave. I would assume that is because of the situation regarding Bill C-260. I can advise the house that, an hour and a half ago, I received the letter that I was looking for from the Minister of Health. If that is all that is holding us back, I would point out that it would take me less than a minute to read that minister's letter into the record.

**Hon. Anne C. Cools:** We can do it at eight o'clock.

**Senator Austin:** It is out of our hands.

**Senator Kinsella:** I suggest that, if we have leave, we could finish the supply bill and then deal with Bill C-260. It would take only five minutes.

**Some Hon. Senators:** Agreed.

**Senator Cools:** I said no.

**The Hon. the Speaker:** There is no unanimous agreement. We will return at eight o'clock, honourable senators.

The sitting of the Senate was suspended.

• (2000)

The sitting of the Senate resumed.

**The Hon. the Speaker:** Honourable senators, Senator Kinsella had the floor, but Senator Rompkey wishes to speak.

**Hon. Bill Rompkey (Deputy Leader of the Government):** If His Honour were to take the temperature of the house, I think he would find agreement to continue debate on Bill C-27 and to dispose of it, then to call Bill C-260, and then to stand all other items on the Order Paper in their place until the next sitting of the Senate.

**Hon. Douglas Roche:** Honourable senators, I was distracted and did not hear the full implications of what the Deputy Leader of the Government was saying. What I hope he will say is that I can speak tonight on Inquiry No. 10. If he confirms that I can speak tonight, I will consent to whatever else he said.

**Senator Rompkey:** That is agreeable, honourable senators.

**The Hon. the Speaker:** It is proposed, honourable senators, and I will ask for unanimous agreement, that we proceed to the conclusion of our deliberations on Bill C-27, proceed to the next item, Bill C-260, proceed to Inquiry No. 10 and then proceed to the adjournment motion. Is it agreed, honourable senators, that we follow that order of business?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** We will continue the debate on Bill C-27. Senator Kinsella has the floor.

## APPROPRIATION BILL NO. 1, 2004-05

## THIRD READING

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Phalen, for the third reading of Bill C-27, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, on the supply bill, Bill C-27, the point has been made that we recognize it as a nine-month request, which is a little unusual. The committee, as I indicated earlier in my intervention, conduct an extraordinary examination of it. The points have been made and, therefore, I am satisfied.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** It was moved by the Honourable Senator Day, seconded by the Honourable Senator Phalen, that this bill be read the third time now. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read the third time and passed.

## HAZARDOUS PRODUCTS ACT

## BILL TO AMEND - THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Morin, seconded by the Honourable Senator Munson, for the third reading of Bill C-260, to amend the Hazardous Products Act (fire-safe cigarettes). — (*Honourable Senator Kinsella*).



**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I have a few moments left in my speech on this bill. Honourable senators will recall that I read into the record a letter that I wrote to the Honourable Pierre Pettigrew, Minister of Health, concerning the bill. A couple of hours ago, I received via fax a letter back from the minister, which I would like to place on the record.

Dear Senator Kinsella:

Thank you for your correspondence of March 17, 2004, concerning Bill C-260: An Act to amend the *Hazardous Products Act* (fire-safe cigarettes), and reduced ignition propensity cigarettes.

I would like to highlight the efforts of the Honourable John McKay, M.P., and the Honourable Yves Morin, Senator, who have brought the issue of needless property damage, injuries, and deaths caused by cigarettes to the forefront of both the House of Commons and the Senate.

Fires started by cigarettes are the leading known cause of fire-related death in Canada. Statistics for the years 1995 to 1999 indicate that at least 14,030 fires were started by smokers' materials. These fires killed 356 people, injured 1,615, and cost more than \$200 million in property damage. To make matters worse, the victims of such fires are often among society's most vulnerable such as children, the elderly and the poor — or the firefighters who are trying to save them.

Based on these facts, I support the idea of reduced ignition propensity cigarettes. Health Canada is completing the development of regulations pursuant to the *Tobacco Act* that would mandate a reduction in the ignition propensity of all cigarettes sold in Canada — imported or otherwise — and I intend to approve their submission to the Governor in Council, upon receipt from the Department. I am confident that these regulations will contribute to reducing the needless property damage, injuries, and deaths caused by cigarette-ignited fires.

With respect to your question regarding possible changes in cigarette smoke toxicity, the proposed regulations are designed to deal with this issue by requiring toxicological testing and reporting of the results to Health Canada on a regular basis. This requirement will help to monitor the toxicity over time of a product already too well known for causing numerous debilitating and fatal diseases.

Concerning the consumer behaviour issue, Health Canada is conducting a year-long survey to determine the current fire-risk behaviour of smokers with regard to cigarettes. This baseline survey is expected to be complete in early 2005. In addition, the Department is using data from the Ontario Fire Marshal to paint a statistical picture of a typical cigarette fire in Ontario. Once the regulations

have been fully implemented, Health Canada will be able to perform a comparative analysis. It is my understanding that neither of these studies would be impacted by adoption of Bill C-260.

Finally, I am confident in saying that Bill C-260 will work in concert with the Department's efforts to protect the health of Canadians.

Should you have any further questions related to tobacco control issues, please do not hesitate to contact...

The letter is signed by the Honourable Pierre Pettigrew.

The minister has indicated that the action plan that the department had in train will not be impeded by the bill and the two can operate in concert. With that assurance, which unfortunately could not be ascertained in committee where it could have been done, we now have it on the record, and the bill is supportable.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** It was moved by the Honourable Senator Morin, seconded by the Honourable Senator Munson, that this bill be read the third time. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read the third time and passed.

## HISTORICAL ROLE OF WOMEN IN THE SENATE AND CHALLENGES FACING WOMEN LEGISLATORS TO ADVANCE PEACE AND HUMAN SECURITY

INQUIRY—DEBATE ADJOURNED

**Hon. Douglas Roche** rose pursuant to notice of March 24, 2004:

That he will call the attention of the Senate to the historical role of women in the Canadian Senate and the challenges faced by modern women legislators to advance peace and human security.

He said: Honourable senators, I am calling the attention of the Senate to the historical role of women in the Canadian Senate and the challenges faced by modern women legislators to advance peace and human security.

As the time nears for my departure from the Senate, I have been reflecting on the most important political developments during the 33 years I have been in public life and what it is that gives me the most hope for the future. The increasingly important role of women in the great issues of our time — peace, security, sustainable development — stands out.

Women who are in the Parliament of Canada today are the direct beneficiaries of the pioneering work of Agnes MacPhail, the first female federal parliamentarian in Canada who was elected in a rural Ontario riding in 1921. Blazing a trail for women into the House of Commons was not easy. When she first tried to enter Parliament and take up her duties, she was stopped by a guard who declared, "You can't go in there, miss." Aside from defending the interests of her constituents, Ms. MacPhail made peace a priority during the turbulent inter-war years. She called for Prime Minister King to create a department of peace and for the Canadian government to spend \$1 on peace education for every \$100 spent on war. It is a pity her suggestions were not accepted.

• (2010)

More doors were opened by the Famous Five women of Alberta: Emily Murphy, the first woman magistrate in the Commonwealth; Louise McKinney, the first woman to serve as a member of a legislative assembly in the Commonwealth when she was elected in 1917; Nellie McClung, who led the fight to enfranchise North American women; Henrietta Edwards, who published Canada's first women's magazine; and Irene Parlby, the first female cabinet minister in Alberta and a delegate to the League of Nations in Geneva. It was these Famous Five who successfully petitioned the Government of Canada to have women declared "persons" under section 24 of the British North America Act so that they could serve in the Senate of Canada. The statue of the Famous Five now graces Parliament Hill.

Four months after the Persons Case of 1929, Cairine Wilson was appointed Canada's first female senator and took an ardent interest in human security. Senator Wilson was a defender of the interests of refugees and was honoured for her work with refugee children. She chaired the Standing Senate Committee on Immigration and Labour and was Canada's delegate to the United Nations General Assembly in 1949, the first woman to hold either position.

Muriel Fergusson, the first woman Speaker of the Senate, used her position of influence to advance the rights of women and to ameliorate conditions for Canada's poor. She was instrumental in securing the right of women to sit on juries, which had the effect of increasing the reporting of sexual assaults, as women no longer had to confront an all-male jury when bringing their case to court. She summed up her outlook well when she stated: "People are my work, in fact my life. Doing things for people, even thinking about what can be done for them, has been what has kept me going." What a refreshing attitude towards public service.

Erminie Cohen, known to many of us in this room, is a more recent example of a female senator who values human security. Her position as honorary chair of the first Atlantic Poor People's Conference in 1996 "shocked and inspired" her, as she described it, to publish a book the next year, *Sounding the Alarm: Poverty in Canada*, calling attention to the plight of the poor.

The Very Reverend Lois Wilson was active in defending human rights in Canada long before her appointment to the Senate in 1998, active as a board member of both Amnesty International and the Canadian International Institute for Peace and Security. As a senator, she represented Canada in efforts to resolve conflicts around the world. Senator Wilson was Canada's special envoy to the Sudanese peace process. She also led the Canadian delegation to North Korea in 2000, which laid the groundwork for the establishment of Canadian diplomatic relations with that country.

Senator Mobina Jaffer succeeded Senator Wilson as envoy to the Sudan and co-chairs, with Lois Wilson, the Canadian Committee on Women, Peace and Security. This committee is responsible for overseeing the implementation in Canada of United Nations Security Council Resolution 1325, which calls for the full and equal participation of women in conflict prevention, peace processes and peace-building.

Senator Jaffer attended the forty-eighth session of the UN Commission on the Status of Women held earlier this month in New York, which repeated calls for greater involvement of women in peace and security and noted the need for men to be full participants in the process of overcoming obstacles to gender equity.

Senator Sharon Carstairs has long championed the interests of the terminally ill and their families. Her efforts to strengthen palliative care resulted in the recent announcement of a new compassionate care leave program to make it possible for family members to take time off work to care for their terminally ill relatives.

Senator Landon Pearson made a commitment following her appointment to the Senate in 1994 to be the senator for children. She co-chaired a Special Joint House Committee on Child Custody and Access to protect the interests of children. She has spoken out against child labour and the gross abuses of the rights of children that occur during war.

Senator Joyce Fairbairn has focused her efforts on fighting illiteracy in Canada, which she has called "our country's hidden shame."

Senator Thelma Chalifoux has stood up for social justice for Aboriginal peoples.

Senator Raynell Andreychuk has used her judicial and diplomatic experience to advance human rights through the promotion of the International Criminal Court and the work of Parliamentarians for Global Action.

Senator Lucie Pépin has worked to improve the health and status of women both in Canada and internationally.

Senators Ione Christensen and Elizabeth Hubley have deepened our understanding of the plight of the victims of land mines.



Senator Marjory LeBreton has raised public support for tougher laws against drunk driving.

Honourable senators, I could go on naming the contributions of other women senators, past and present, to human security issues. I see a pattern of concern for the most vulnerable people in our society. Perhaps this concern is rooted in the fact that women themselves have had to struggle to claim equal rights in our society — a struggle that continues to this day.

We have only to look around this chamber to see that women are not equally represented in the halls of power in Canada. Women occupy 35 per cent of Senate seats, which is good enough to make us sixth in the world in female representation in an upper house, but still falls far short of giving women their rightful share of seats.

Unfortunately, women do not fair as well in the House of Commons, where they make up less than 21 per cent of the members of Parliament, putting Canada in thirty-sixth place internationally. By comparison, Rwanda has the greatest percentage of women in the lower house, at almost 49 per cent, followed by Sweden, at 45 per cent.

Perhaps a second reason women are involved in advancing human security is that they experience insecurity differently from their male counterparts. It is those with less money and power who are most directly affected by government cuts in health and education spending, and by reduced income support programs. They also benefit the most from strengthened human rights protections.

Internationally, women suffer disproportionately the effects of conflict, which today kill more civilians than military personnel. War brings with it an increase in violence against women, both by armed factions and within the home. The evidence of sexual violence in recent conflicts in the former Yugoslavia and Rwanda, among other places, is truly sickening.

• (2020)

Women in Canada and around the world are recognizing that peace is in their direct interest and are taking a leading role in resolving conflict. The Canadian Voice of Women for Peace, formed in 1960, played a leading role in promoting disarmament and reconciliation during the Cold War. In 1962, this group endured public ridicule from the media, which called them pathetically foolish for their courageous stand in petitioning the government not to accept America nuclear weapons on Canadian soil. How right the Voice of Women was then and now in the opposition they and like-minded groups displayed toward the recent Iraq war.

In the western world, the Women's International League for Peace and Freedom brought together 1,200 women from a wide variety of states to protest the First World War. Since then, this organization has continued to advance the cause of human rights and disarmament with chapters in 37 countries around the world.

[ Senator Roche ]

The United Nations has strongly promoted women's involvement in peace and security issues. The Fourth World Conference on Women, which took place in Beijing in 1995, concluded by issuing the Beijing Declaration and Platform for Action. The declaration, which aimed to empower women, recognized that "the full realization of all human rights and fundamental freedoms of all women is essential to the empowerment of women." This declaration was followed up by Security Council Resolution 1325, which I mentioned a moment ago, adopted in 2000. It expressed concern about the impact of conflict on women and stressed "the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security."

Honourable senators, my observation of the world scene over these past three decades has convinced me that women stand at the centre of change. When the representatives of the women of the world gathered in Beijing in 1995, it was affirmed that the leadership of the half of humanity that is female is essential to the search for peace and security. This leadership begins with ensuring that the doors of education are open to all the girls and young women in developing countries. Where this has happened, and I have seen it with my own eyes, startling results in development and population control have been achieved. The full development of women within all societies is, of course, paramount along with the guarantees of their full human rights. The movement forward of the status of women in society is clearly occurring, despite lamentable acts of discrimination that still scar humanity.

However, I go further in my assessment of the role of women today in the need to build true human security. Here is the world that we face: 2.7 billion people live on less than \$2 per day; 1.1 billion lack safe drinking water; 800 million are hungry; 40 million are infected with HIV/AIDS; 16 million are either refugees or internally displaced persons.

On top of this scandalous social deficit, there still exist today 34,145 nuclear weapons with the capacity of destroying the world many times over. Nuclear weapons account for only a fraction of the \$850 billion that the governments of the world spend on their militaries every year.

The UN's Millennium Development Goals, avowed by UN Secretary-General Kofi Annan, require a minimum of \$50 billion to halve extreme poverty by 2015, reduce child mortality, combat HIV/AIDS, and develop a global partnership for development. However, so distorted are the priorities of governments that only about \$16 billion has been pledged to date.

These human security issues are by no means just women's issues; they are the business of men and women alike to repair.

**The Hon. the Speaker:** Senator Roche, your time has expired.

**Senator Roche:** I would ask honourable senators for leave to continue.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

**Senator Roche:** I thank honourable senators.

I sense that the time has come for the growing and hardy band of women legislators to demand that governments everywhere get their priorities right and recognize that if we want peace and human security in the world, we must replace the culture of war with the culture of peace.

I am not saying that a world run by women would necessarily be a completely peaceful world, but my political and diplomatic experience indicates to me that the prospects of achieving a more humane world would improve with more women in the decision-making processes of governments. It may be true that not all women politicians are dedicated to a social justice agenda, but I think many of them are. When the number of women in public life is strengthened to achieve a critical mass, I think women legislators will be emboldened to push for better policies.

This idea was eloquently expressed by a woman named Jamila, Director of the Afghan Women's Welfare Department and founding member of the Afghan Women's Network, in her testimony before the UN Security Council in 2001. She said:

I have often heard that Afghan women are not political; that peace and security is man's work. I am here to challenge that illusion. For the last 20 years of my life, the leadership of men has only brought war and suffering... Anyone searching for Afghan women to engage in peace does not have to look far... When the UN is looking for leaders, look to us.

Men have had their way long enough in world history and they have given us a chain of war and poverty. It is time for change.

Honourable senators all, but especially honourable women senators, as I leave this great institution, I appeal to you to raise your voices against hunger and AIDS, against weapons and against the great injustices that drag down so many people around the world. Raise your voices for an end to poverty, abuse and discrimination. Raise your voices for a nuclear-weapons-free world. Raise your voices for the full application of human rights for all women and for children and men too. Take the high moral ground in the struggles ahead to obtain true peace. You stand on the foundation of what the women who have come before you have built. You hold up half the sky. The future is yours.

**Hon. Senators:** Hear, hear!

**Senator Cools:** I move the adjournment of the debate.

**Hon. Laurier L. LaPierre:** Honourable senators, I want to speak to Senator Roche's remarks. In the process of the great statement made by the honourable senator, we who are French-speaking will never forget the Honourable Marie Thérèse Casgrain and her contribution to the rights and freedom of the women of Quebec.

• (2030)

Not only did she have to battle men in pants, but she also had to battle men in skirts — priests, bishops, archbishops and cardinals, and even the Pope himself. She did it with astonishing courage.

Every day she was laughed at, and at the end of her life, she saw the result of all her work with the emancipation of women in the province of Quebec, which was a great social achievement.

I thought that I would add to the magnificent statement of the honourable senator.

**Hon. Anne C. Cools:** Before the adjournment motion is put, may I ask Senator Roche a question?

**An Honourable Senator:** No.

**Senator Tkachuk:** Why?

**Senator Robichaud:** The last speaker was Senator LaPierre.

**Senator Cools:** Colleagues!

**The Hon. the Speaker:** We have agreed to deal with this item. Senator Roche has given his speech. Senator Cools would like to adjourn the debate. Apparently she has a question, and Senator LaPierre made what I consider to be a comment on the speech of Senator Roche. Under our rules, that is permitted.

Senator Cools will ask a question and then adjourn the debate.

**Senator Cools:** The reason I did not put the question previously, honourable senators, is that I thought we were anxious to conclude this sitting.

Does Senator Roche know the name of the first black female senator in all of North America, Canada and the United States of America? I am asking the honourable senator if he knows. Why is it that whenever great statements about women are made, a black woman is never included?

**Senator Roche:** I thank Senator Cools. Of course, I should like to refer her to my penultimate comment tonight in which I quoted a black woman from Afghanistan who testified before the United Nations Security Council. I gave her prominence in my speech by quoting her plea to the world, through the Security Council, that the role of women, all women, needs to be enhanced in order to develop peace and security. That was a very important statement.

**Senator Cools:** Perhaps I was not clear. When I said "black," I was talking about the Negroid races.

Why is it in this country, and in this chamber, that, assiduously, whenever members rise to speak about women, they never, ever mention what in the old days you would have called Negro women? Why is it that one of them is never mentioned? Is it because no black women are worthy of mention; or is it because no one has thought of it?



The honourable senator was talking about women. Afghan women may be dark of complexion, but in our part of the world, when we say "black," we do not mean Indian or Afghan or so on. It is the word that was substituted for the old term Negro — the black races on this continent.

I am just curious. I listen to these statements again and again. I am always curious about the fact that, in the midst of statements that we must have love, peace and no discrimination, we discriminate again and again.

**Senator Roche:** I thank Honourable Senator Cools for the question. Since I am nearing the end of my time in the Senate, I will give her more than a one-sentence answer, I will give a two-sentence answer.

As a young man, a journalist before I went into political life, I was sent around the world many times. I travelled through Africa, Asia and Latin America. I saw the world as it was. I saw the colours, the religions, the cultures and the races.

Then, at a later stage of my life, when I started going to the United Nations — about 30 years ago, and I have been going regularly ever since — I became immersed in the peoples of the world as we see them at the United Nations. I can tell Senator Cools that I think I have become colour blind.

**Some Hon. Senators:** Hear, hear!

**Senator Cools:** Perhaps that blindness is a handicap. I am not talking about personal preferences here at all. I am talking about the phenomenon of conceptualizing of the whole concept of peace and security.

I would submit to Senator Roche that one of the reasons, perhaps, there is so much bloodshed, unhappiness and terror in the world is that some of the European races have not been sufficiently respectful of many of the African races.

**The Hon. the Speaker:** Before I see Senator Roche, I would remind honourable senators that Senator Roche indicated that he would be a couple of minutes. My understanding of the Deputy Leader of the Government's proposal was that, as it is late in the evening, we would not be long. I would remind honourable senators of that.

**Senator Roche:** I would say amen to that.

**Senator Cools:** I am not a Black American. I do not do the "amen thing."

**Senator Roche:** I can only speak in this chamber from the perspective of my own culture. If I took Senator Cools through a tour of my past writings, she would see in there the life history of an educator from Nigeria who significantly participated in my education. I was heavily influenced by him, among others who have inspired me and taught me throughout my life.

What I have learned is that there is discrimination in this world. It is economic, social, racial and religious. It is not discrimination that I have been able to measure by any one group against any one other group exclusively. It is epidemic in its manifestations.

I will leave this as my final word of the evening: It behooves all of us, wherever we come from, to work against discrimination against persons of all colours and faiths who are being discriminated against in the world today.

**Senator Cools:** Absolutely. I commend the honourable senator.

**Hon. Bill Rompkey (Deputy Leader of the Government):** I believe the intervention of His Honour was correct. We allow questions, but this is turning into a debate. We should now assume that Senator Cools has the adjournment. She will have an opportunity to make the points she is making now, but they should be done at a later date, not tonight. That was the unanimous agreement on both sides of the chamber.

**Senator Cools:** The agreement was at the completion of this particular question. I am asking one or two questions. If honourable senators wish to vote me down, feel free. It happens here a lot. If you want to do it, go right ahead.

I just want to say to Senator Roche, in my culture — and I was born and raised —

**The Hon. the Speaker:** I just wish to clarify one thing. Senator Roche, are you prepared to take more questions?

**Senator Roche:** I think the sense of the evening is that we have had a pretty good debate so far.

On motion of Senator Cools, debate adjourned.

The Senate adjourned until Wednesday, March 31, 2004 at 1:30 p.m.

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CANADA

# Debates of the Senate

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3rd SESSION

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37th PARLIAMENT

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OFFICIAL REPORT  
(HANSARD)

Wednesday, March 31, 2004

THE HONOURABLE DAN HAYS  
SPEAKER





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## THE SENATE

Tuesday, March 9, 2004

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

### HIS EXCELLENCY KOFI ANNAN SECRETARY-GENERAL OF THE UNITED NATIONS

ADDRESS TO SENATE AND HOUSE OF COMMONS  
PRINTED AS APPENDIX

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I move, seconded by the Honourable Senator Lynch-Staunton:

Pursuant to rule 59 (18), that the address of His Excellency Kofi Annan, Secretary-General of the United Nations, delivered to Members of both Houses of Parliament earlier this day, together with the introductory speech by the Right Honourable Prime Minister of Canada and the speeches delivered by the Speaker of the Senate and the Speaker of the House of Commons, be printed as an appendix to the *Debates of the Senate* of this day.

**Hon. Senators:** Hear, hear.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

(For text of Speeches, see Appendix, p. 479.)

## SENATORS' STATEMENTS

### UNITED CHURCH BEADS OF HOPE CAMPAIGN

**Hon. Joan Cook:** Honourable senators, in December of 2002, the United Church of Canada launched the Beads of Hope Campaign in response to the HIV/AIDS global pandemic. The goals were to raise \$1 million over a two-year period, to increase awareness throughout the church and to take action to improve policies that impact on people living with HIV/AIDS.

The campaign was initiated, in large part, as a response to the call from global partners, particularly in Africa, to join them in their efforts to address HIV/AIDS and the impact it is having on their countries, their communities and their families.

More than 20 million people have died of AIDS-related illness worldwide, and in 2002, 40 million people were infected with HIV. It is important to note that 95 per cent of all infections are in the global south, and 14 million orphans have been created by AIDS-related deaths. This number is expected to more than double by the year 2010.

On March 14, 15 members of the United Church Women from across Canada will be travelling to Zambia to participate in a Women's Educational Visit. They will learn first hand of the impact of HIV and AIDS on individuals, churches and communities there. They will be exposed to some of the programs that the United Church of Canada's global partners are developing to meet the crisis.

Honourable senators, the moderator of the United Church of Canada, the Right Reverend Peter Short, is in Ottawa today to present the 30,000 signatures on the Beads of Hope Petition. Four goals of the petition call for the Canadian government to cancel the burden of debt owed by developing countries; to increase foreign aid; to ensure that patents or trade-related intellectual property rights do not block access to life-saving medicines; and to double the funding to the Canadian Strategy on HIV/AIDS.

The United Church of Canada is in partnership with councils of churches, denominations and non-governmental agencies in more than 40 countries around the world. Their activities reflect a growing sense of urgency and optimism that, by working together in partnership, we can help to overcome this pandemic.

Honourable senators, I lend my support to the efforts of my faith community, the United Church of Canada.

## UNITED NATIONS

### INTERNATIONAL COURT OF JUSTICE—REQUEST FOR OPINION ON WALL CONSTRUCTED BY ISRAEL

**Hon. David Tkachuk:** Honourable senators, the International Court of Justice in The Hague has ended its public hearings into the legality of the Israeli West Bank security barrier. The hearings emerge from a request by the United Nations General Assembly for an advisory opinion on "the legal consequences arising from the construction of the wall."

It may take up to several months for a decision to be delivered, but I fear that the damage to the International Court of Justice has already been done, and that it has been politicized. The atmosphere surrounding the hearings has accurately been described as "a circus." In this environment, any decisions from the court will be used merely as a public relations ploy and nothing more.

In my view, the International Court of Justice should never have agreed to take this case. The UN General Assembly resolution — referring to Israel as the "occupying power" and the wall as being built on "occupied Palestinian territory" — was phrased in purely political terms, and the request for an advisory opinion could have been declined on that basis alone. By proceeding with this case, the court has backed itself into a corner.

The State of Israel has made it clear that it does not recognize the International Court's jurisdiction in matters that affect its own domestic security. Decisions rendered by the International Court are non-binding upon either party. We must ask ourselves: What good has any of this brought if, from the very beginning, everyone involved in the hearing acknowledged that the involvement of the court had no ultimate bearing on whether the barrier stands or falls?

It has been assumed in the media that any pronouncement from the International Court of Justice on the legality of the barrier may be considered a victory for the Palestinians, even if the court chooses not to make a recommendation to the United Nations. Israel's decision to not involve itself with the hearings has already been characterized as an admission of guilt by the Palestinian leadership. The International Court of Justice will undermine its own integrity and legitimacy even further if it issues an opinion. It will provide more fodder for the groups related to the proceedings to seek media attention instead of dealing with the situation in an appropriate venue.

The Canadian government has said that it objects to the politicization of the International Court of Justice in this matter. However, Canada, once it had already joined other countries in calling for the court to stop its hearings, should not have given any notice to the subsequent proceedings. Instead, the government submitted a two-page written statement that only served to illustrate how murky our position really is.

Honourable senators, any notice or decision on this issue rendered from the International Court of Justice drags the court into places it should never go if it wishes to remain above the fray, and not fall into disrepute. I am greatly saddened that the International Court of Justice chose to do grave harm to its reputation by taking on a highly political issue disguised in legal terminology.

[Translation]

## INTERNATIONAL WOMEN'S DAY

**Hon. Lucie Pépin:** Honourable senators, like other women all over the world, yesterday, March 8, we celebrated International Women's Day. On this occasion, Canadian women reminded us that, while the notion of equality is often included in our laws and values, a lot remains to be done to achieve full equality.

This year's theme is "She's on a Role!". My political action and activism has always been stimulated by the tenacity of women that I have met. This is still the case today. The determination of the spouses and wives of Canadian Forces members is a major source of inspiration for me.

These women did not enrol in the army, but their lives are largely conditioned by the military environment. We do not talk much about these women in "invisible uniforms," but they are there, standing proud and supporting their spouses. One really has to meet these women to realize what they do.

• (1410)

During this week dedicated to women, I want to assure them once again of my full support and total admiration. Their courage, their sense of sacrifice and their patriotism are eternal wellsprings of inspiration for many Canadian women and men.

The lives of these women are determined by their military husbands' work. These valiant women live in unique conditions, which often cause serious professional and personal worries. The prolonged absences, the timing and location of transfers, and the workload of the military spouse have direct effects on their daily lives. For these reasons, most of them have difficulty working steadily in a career. They often must quit work in order to maintain their relationship as a couple and the stability of the family.

In many cases, the amount of travel inherent in military life means that they are alone with many heavy responsibilities, such as bringing up the children. Many of the women I met made it clear to me that these frequent missions were not without an impact on their life as a couple. Every time their husbands are deployed, these unsung heroines live with the stress and anguish that they might not see them come home from the mission.

Solitude and isolation are shared widely by military wives. The separation from friends and family, who often live at some distance, leaves them feeling down, especially when their military partners are absent for lengthy periods.

The life of a soldier's wife is full of challenges that I could not list in full. Still, despite all these difficulties, they are the first to say how proud they are to share their lives with soldiers. All they ask is that we support them.

I invite the honourable senators to continue to support the unstinting efforts of the military hierarchy to reduce tension and heartbreak within military families. That is the best kind of support we can give these dynamic women.

[Later]

**Hon. Rose-Marie Losier-Cool:** Honourable senators, International Women's Day recognizes that half of our society without whom we would simply not exist. Celebrations marking this day were held yesterday on March 8.

As Senator Pépin just noted, the theme of International Women's Day 2004 is "She's on a Role". I want to present some of my sisters here and elsewhere who have been a source of inspiration to me.

Aldéa Landry, a lawyer and the first female Acadian member of cabinet, President of the provincial Liberal Party and the New Brunswick branch of the Canadian Bar Association; Mother Jeanne de Valois, whose maiden name was Bella Léger, the founder, in 1948, of the first classical college for young women in Acadia, Collège Notre-Dame d'Acadie in Moncton; Katherine McNaughton, who received the first *honoris causa* doctorate at the University of New Brunswick, in recognition of her career as an educator and educational historian; my compatriot and colleague Muriel McQueen Fergusson, the first woman from Atlantic Canada to become a senator and the first woman to be



Speaker of the Senate; Meriem Bela'ala, chair of SOS Femmes en détresse, an Algerian organization fighting for women's rights in that country whose centre opened an additional 40 spots yesterday; my two granddaughters, Céline and Clara-Rose whose intelligence and thirst for life point to a bright future that I pledge to provide; and my colleague and friend from Burkina Faso, Viviane Compaoré, Chair of the Réseau des femmes of the Assemblée parlementaire de la Francophonie.

This network was created in 2002 to provide francophone women parliamentarians from around the world with a forum in which to make known their opinions on all the issues debated by the APF. I have the great honour to be vice-chair of this association. Our executive committee will meet at the end of March in Marrakech.

[English]

#### CANADIAN DIABETES ASSOCIATION ADVOCACY LEADERSHIP FORUM

**Hon. Norman K. Atkins:** Honourable senators, over this past weekend, Canadian Diabetes Association staff and volunteers from across the country gathered in Ottawa to share information and expertise.

The association's Advocacy Leadership Forum began on Saturday evening with a dinner to honour and celebrate the tremendous commitment and talent of the staff and volunteer advocates, as they speak on behalf of the nearly 2 million Canadians living with diabetes. Sunday was spent in a series of workshops to hone their advocacy skills and share their experiences and challenges. The forum's grand finale was a parliamentary reception, a rare opportunity for the forum participants to meet and talk to members of Parliament.

Honourable senators, if you are not living with diabetes, it is very likely that you know someone who is. I know firsthand what this disease is all about because, unfortunately, I am one of its victims. Currently, one in 13 Canadians lives with diabetes and that figure will continue to rise. Canada's population is aging. We have increased immigration from populations at higher risk for type 2 diabetes. As well, our Aboriginal population is growing and they are also at higher risk. Canada has an increasing prevalence of obesity and inactivity. I suggest also that our large population of baby boomers, in particular, are at an age when they are becoming increasingly vulnerable. I would not hesitate to suggest that the statistics for Canadians with this disease might become much higher, perhaps one in 10, in the near future.

It is troubling to know that type 2 diabetes, once referred to as adult onset diabetes, is now being diagnosed in Canadian youth and children, and that it is at an epidemic level in Aboriginal communities across the country. Today, nearly 2 million Canadians have diabetes. The recent lowering of the age of risk from 45 to 40 years means that 2.5 million more Canadians are now considered at risk.

The economic cost of diabetes impacts all Canadians. First and foremost, managing diabetes and its complications places a tremendous financial burden on individuals living with the chronic disease. The cost of blood glucose test strips alone could cost an individual up to \$2,200 per year.

[ Senator Losier-Cool ]

Diabetes and its complications, including heart disease and stroke, kidney failure requiring dialysis, vision loss or blindness, and amputations due to nerve damage, cost the Canadian health care system an estimated \$13.2 billion in 2002. Incidentally, that is more than our total budget for defence. The cost is forecast to escalate to \$15.6 billion by 2010.

Undoubtedly, diabetes is a major public health issue in Canada today. For that reason, events such as this forum, which allows diabetes advocates from across the country access to parliamentary representatives, are extremely important and will continue to be important.

Dr. Banting and Dr. Best, two great Canadians, have saved millions of lives through their discovery of insulin. However, it is important to understand that medical scientists around the world are continuing to work to find a cure for this dreadful disease. Let us hope that they are successful.

## ROUTINE PROCEEDINGS

### ASSISTED HUMAN REPRODUCTION BILL

#### REPORT OF COMMITTEE

**Hon. Jane Cordy,** for Senator Kirby, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Tuesday, March 9, 2004

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

#### SECOND REPORT

Your Committee, to which was referred Bill C-6, respecting assisted human reproduction and related research, has, in obedience to the Order of Reference of Friday, February 13, 2004, examined the said Bill and now reports the same without amendment.

Your Committee appends to this report certain observations on the Bill.

Respectfully submitted,

JANE CORDY  
*For the Chair*

(For text of observations, see today's Journals of the Senate, Appendix p. 238.)

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Morin, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

• (1420)

[Translation]

## LIBRARY OF PARLIAMENT

### FIRST REPORT OF JOINT COMMITTEE PRESENTED

**Hon. Yves Morin**, Co-Chairman of the Standing Joint Committee on the Library of Parliament, presented the following report:

Tuesday, March 9, 2004

The Standing Joint Committee on the Library of Parliament has the honour to present its

### FIRST REPORT

Your Committee recommends that it be authorized to assist the Speaker of the Senate and the Speaker of the House of Commons in directing and controlling the Library of Parliament; and that it be authorized to make recommendations to the Speaker of the Senate and the Speaker of the House of Commons regarding the governance of the Library and the proper expenditure of moneys voted by Parliament for the purchase of books, maps or other articles to be deposited therein.

Your Committee recommends that its quorum be fixed at seven (7) members, provided that both Houses are represented including a member from the opposition and a member from the government whenever a vote, resolution or other decision is taken, and that Joint Chairs be authorized to hold meetings to receive and publish evidence when a quorum is not present, provided that at least (4) members are present including a member from the opposition and a member from the government.

Your Committee further recommends to the Senate that it be empowered to sit during sittings of the Senate.

A copy of the relevant Minutes of Proceedings (Meeting No. 1) is tabled.

Respectfully submitted,

YVES MORIN  
*Joint Chair*

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Morin, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

## OFFICIAL LANGUAGES ACT

### BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Maria Chaput**, Chair of the Standing Senate Committee on Official Languages, presented the following report:

Tuesday, March 9, 2004

The Standing Senate Committee on Official Languages has the honour to present its

### THIRD REPORT

Your Committee, to which was referred Bill S-4, to amend the Official Languages Act (promotion of English and French), has, in obedience to the Order of Reference of Thursday, February 26, 2004, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

MARIA CHAPUT  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

**Hon. Jean-Robert Gauthier:** Honourable senators, I move that Bill S-4 be read the third time later this day.

[English]

**The Hon. the Speaker:** Honourable senators, when shall this bill be read a third time?

**Senator Gauthier:** Honourable senators, with leave, later this day.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Senator Lynch-Staunton:** No.

**The Hon. the Speaker:** Leave is not granted.

On motion of Senator Gauthier, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[Translation]

## CRIMINAL CODE

### BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-22, to amend the Criminal Code (cruelty to animals).

Bill read first time.



**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Rompkey, bill placed on the Orders of the Day for second reading two days hence.

[English]

**The Hon. the Speaker:** Honourable senators, when shall this bill be read a second time?

On motion of Senator Rompkey, bill placed on Orders of the Day for consideration two days hence.

### QUEEN'S THEOLOGICAL COLLEGE

#### PRIVATE BILL TO AMEND ACT OF INCORPORATION— PRESENTATION OF PETITION

**Hon. Lowell Murray:** Honourable senators, I have the honour to present the petition from Queen's Theological College in the City of Kingston, Province of Ontario, praying for the passage of an act to amend its act of incorporation in order to effect certain changes in the composition and role of the Board of Management of Queen's Theological College; to change the representation of the college at the Senate of Queen's University at Kingston; and to make such other technical or incidental changes to the act as may be appropriate.

[Translation]

### OFFICIAL LANGUAGES

#### BILINGUAL STATUS OF CITY OF OTTAWA— PRESENTATION OF PETITION

**Hon. Jean-Claude Rivest:** Honourable senators, pursuant to rule 4(h), I have the honour to table petitions signed by another 85 people asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that Parliament consider the following:

That the Canadian Constitution provides that English and French are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the government of Canada;

That section 16 of the Constitution Act, 1867, designates the city of Ottawa as the seat of government of Canada;

That citizens have the right in the national capital to have access to the services provided by all institutions of the government of Canada in the official language of their choice, namely English or French;

That Ottawa, the capital of Canada, has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners call upon Parliament to affirm in the Constitution of Canada that Ottawa, the capital of Canada — the only one mentioned in the Constitution — be declared officially bilingual, under section 16 of the Constitution Acts from 1867 to 1982.

[English]

### NUNAVIK

#### COST OF LIVING—DISCRIMINATORY TAX SYSTEM— PRESENTATION OF PETITION

**Hon. Charlie Watt:** Honourable senators, I have the honour to present the petition of 127 households from the northern Municipality of Salluit, Nunavik.

The petitioners pray and request that the Senate of Canada consider the following points:

That the villages of Nunavik are isolated northern communities with no road access to the goods and services paid for by taxpayers and readily available throughout southern Canada;

That the costs of living in Nunavik northern villages varies from a low of 150 per cent to a high of over 200 per cent of the cost of living in southern Canada, the average being 182 per cent of the cost of living in southern Canada;

That the highest cost of living in Nunavik and the filing of income tax returns, which are not available in the Inuit language, is therefore a burden on those individuals;

That the residents of Nunavik who do not file are hereby deprived of significant sums of money in refunds to which they are entitled;

That the above conditions give rise to legitimate grievances and fuel discontent among the residents of Nunavik;

That equality before the law requires more than treating people in the same way, but requires people to be given equal access and opportunities;

Therefore, your petitioners pray that the Senate:

- a) Study the grievances set out in this petition, the current systemic discriminations against them in the tax system and all other related matters that may seem to fit it, with a view to recommending measures that could be taken to promote the fair treatment and economic well-being of the residents of Nunavik; and,
- b) urge the Government of Canada to respond to these grievances without delay.

• (1430)

## QUESTION PERIOD

### NATIONAL DEFENCE

#### CORPORAL TRAINING PROGRAM—PER DIEM RATE

**Hon. Michael A. Meighen:** Honourable senators, as anyone who reads the newspapers now knows the generosity of this Liberal government knows no bounds, particularly when it comes to distributing taxpayers hard earned money amongst their friends, yet that same government's stinginess is legendary when it comes to parting with money for the men and women of our Armed Forces who put their lives on the line for this country.

Just how stingy was evident this week when it was reported that in 2002, the government sent 10 corporals on a training course that included a \$50 per diem for each of them. Upon reflection though, the government subsidy decided that the amount was far too much and reduced the per diem to \$17.50.

The corporals who were on this course, lucky people, now owe the government an average of \$2200 each and, according to newspaper reports, the government official rationalized the deduction by saying "DND is not a benefits smorgasbord and if military members desire to be treated as civilians, then there are options available."

The Minister of Defence has promised once again to look into this unsatisfactory situation and to try to arrive at a satisfactory conclusion for the 10 corporals.

Is it government policy to treat soldiers on courses differently than civilians? If not, why was the per diem for two civilians who also went on the course not clawed back as well? What are the Treasury Board guidelines on this?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, let me begin the answer by sharing a secret with you that is known of course to senators from British Columbia, Senator St. Germain, Senator Carney and Senator Lawson, and that is that the cost of living in British Columbia is quite high and it is not surprising that an official in DND who is not familiar with British Columbia took steps that are not appropriate to the cost structure of the visit of those military people to British Columbia. I am happy to advise Senator Meighen that I am on the file and pressing for reality in these circumstances.

#### PER DIEM RATE FOR SENIOR OFFICERS

**Hon. Michael A. Meighen:** Honourable senators, I thank the Leader of the Government for that answer. I hope it will come with the same speed as the answer to my previous question that has been outstanding for one month now, but I am sure it will.

On a supplementary matter, what are the Treasury Board guidelines regarding per diems for those of the rank of colonel and above? Is there a distinction as there was in the case of Major Henwood, which was subsequently rectified?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I would have to take the specific question as notice as Senator Meighen might imagine. I do not have the per diem, with respect to senior officers of military, right at hand, but I will provide it with the usual promptness.

### CROWN CORPORATIONS

#### APPLICATION OF WHISTLE-BLOWING LEGISLATION

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators will recall that the Senate has done pioneering work in the field of whistle-blowing and that unfortunately the government has not followed the advice of this honourable house in that matter. If it had, of course, part of the culture of corruption that we are now witnessing might have come to the fore more appropriately and therefore dealt with more appropriately.

The President of the Treasury Board, however, has promised, and I welcome his promise, to draft whistle-blowing protection by the end of this month. My question to the Leader of the Government in the Senate is: Can the government assure this house that this legislation that the government is drafting will apply to Crown corporations so that whistle-blowers like Myriam Bédard will be protected, no matter where they work in the Government of Canada?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, first, I want to acknowledge the pioneering work that Senator Kinsella has done in the field of whistle-blowing. He is quite right in my opinion, that this legislation is past due and the circumstances that are now being experienced demonstrate that. With respect to his specific question, I will look into the matter. I am a bit surprised that it is a question, but Senator Kinsella is quite familiar with these issues and therefore I will take it seriously and inquire whether there is any possibility of exception and what the basis for it would be with respect to Crown corporations.

### THE SENATE

#### WHISTLE-BLOWING LEGISLATION— REQUEST FOR PRE-STUDY

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** This leads to a natural supplementary question, honourable senators. We know how legislation is developed and, if introduced first in the other place, we know how challenging it is for this house to bring it forward and have amendments made to the legislation. Even though it is really in the public interest of the country and has been a matter before this house, and the other place, through private members bills, would the government agree that when the President of the Treasury Board introduces his legislation that we would undertake a pre-study of that bill so that the areas of coverage, such as Crown corporations, might be able to influence in a more direct way the work of the other place in their committee, if they see what the Senate is saying about the bill, which is one the great features of the pre-study mechanism?



**Hon. Jack Austin (Leader of the Government):** Honourable senators, Senator Kinsella asked this question of me on February 18 when I delivered my speech in reply to the Speech from the Throne and I said at that time that I was quite interested in the idea. I am and I will continue to advance that particular cause because I believe this is a unique situation in which pre-study would greatly affect the knowledge of this chamber and, therefore, the capacity of it to make an early impact.

I cannot give an undertaking at this time, but I will be very happy to process this proposal.

## ROYAL CANADIAN MOUNTED POLICE

### APPLICATION OF WHISTLE-BLOWING LEGISLATION

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, on a minor supplementary question, in January, the Royal Canadian Mounted Police rejected an external report exonerating an officer who blew the whistle when told to stop investigating corruption at Canada's High Commission in Hong Kong. This raises the obvious question, as to whether the government will include whistle-blowing legislation such that it will apply to the Royal Canadian Mounted Police.

The other area that we would like to have a government commitment on regards those who have had their careers ruined by retaliation, because there was no whistle-blowing protection. I am thinking, for example, of Adam Cotler who blew the whistle on ad scam back in 1996, and his career was ruined. So will the government undertake that the whistle-blowing policy and the legislation include restitution for those whose careers were shattered for blowing the whistle on corruption and wrongdoing?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, again that Senator Kinsella is posing a very interesting issue and obviously it will need to be considered.

• (1440)

## PARLIAMENT

### GOVERNMENT ABUSE OF POWER

**Hon. Gerry St. Germain:** Honourable senators, my question is also to the Leader of the Government in the Senate. As Senator Kinsella pointed out, there is concern in the country about the culture of corruption here in Ottawa, but I find that the abuse of power at the highest office in the land is what really concerns Canadians. It scares the heck out of Canadians to hear about the activities of the people in the PMO, whether it be Jean Chrétien, Jean Pelletier, Eddie Goldenberg, or Jean Carle and Michel Vennat at the FBDB — I cannot name them all, although I am not protecting anyone. Let us lay the cards on the table in the way that they are.

I think that Diane Francis encapsulated the entire situation perfectly in her article on the attack on François Beaudoin. We have Stevie Cameron coming out of the woodwork. What was she working towards: her Order of Canada, a GIC appointment, a Senate appointment or a top civil service job?

Canadians are concerned that there are no checks and balances in the use and abuse of power. We could have the misuse of power at Revenue Canada, CSIS and the RCMP. There are allegations

that the RCMP were involved with Stevie Cameron. What checks and balances are in place so that you folks on the other side could not decide to pick on, let us say, Kinsella or St. Germain, just because St. Germain asks aggressive questions? You could say, "We will fix that sucker. We will have Revenue Canada reassess his books. We will have CSIS and the RCMP investigate him and his buddies." What protection do Canadians really have?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I think Senator St. Germain had a bad lunch.

**Senator St. Germain:** I think Canadians have had a bad 10 years! They have had 10 years of corruption, abuse of power and a horrific situation to deal with today. As we write our cheques for income tax in 30 days or so, we wonder what this money is paying for. More ad scams, more scams, more abuse of power? How much did British Columbia get from these last programs? They got nothing, and 80 per cent went somewhere else. Why is the leader not standing up and protecting British Columbia instead of making glib responses to me in regard to these areas of great concern?

**Senator Austin:** Honourable senators, I think if I had been associated with a sponsorship program, which I have not, Senator St. Germain would be treating me as if I were in the know on some aspect, and the speech would be equally exciting but equally wrong.

I deplore one thing, Senator St. Germain, and that is that, with your vigour, your energy, your passion and your bilingualism, you are not a candidate for the leadership of your party, because there is more colour and excitement in your questions than anything I have seen in the combined campaigns of the three candidates who are presently running for the leadership of your party.

**Senator St. Germain:** Flattery will get you nowhere. I am glad you recognize the talents of this side, because I am at the bottom of the totem pole. These people are much more qualified. I can tell you that whoever we choose, I must remain here to keep this place in check. Whoever we choose, beware. We will be the power next time around, after the election.

**Senator Austin:** I want to say, however, do not take the people of Canada for granted.

**Senator St. Germain:** We are not doing that.

## JUSTICE

### UNITED STATES— PROBLEM OF SMUGGLING HAND GUNS

**Hon. Jeremiah S. Grafstein:** Honourable senators, I have a question for the Leader of the Government in the Senate. Last week, a delegation of senators and members of the House of Commons met with Mayor Miller and Police Chief Fantino in Toronto to discuss an outburst of guns and gangs in Toronto that has led to some very violent deaths in recent weeks, and it is escalating. The Chief of Police brought to our attention a very startling statistic. He said that, according to his information, 50 per cent of the handguns on the streets of Toronto were imported or smuggled in from the United States. The police chief felt that this was a serious problem. The information surprised the mayor as well. He was unaware of it.

Perhaps the leader of the government could bring this issue to the attention of cabinet or the responsible ministers, and let us know if, first, cabinet is in possession of this information and, if not, what, if anything, the cabinet will do as a result of this serious situation.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I certainly will raise Senator Grafstein's question with the Deputy Prime Minister and with the Minister for Public Security.

## TREASURY BOARD

### PROGRAMS TO PROMOTE VISIBLE MINORITIES

**Hon. Donald H. Oliver:** Honourable senators, my question is for the Leader of the Government in the Senate. The Honourable Denis Coderre, President of the Queen's Privy Council for Canada and Minister responsible for the Public Service Human Resources Management Agency of Canada, tabled today the eleventh annual report on employment equity in the federal public service. In a news release, we read that the latest figures contained in the 2002-03 annual report show improved representation among all designated groups in Canada's public service — women, Aboriginal peoples, persons with disabilities and visible minorities — and that representation by the first three groups in the public service exceeds their labour market availability. The Leader of the Government in the Senate will note the absence of the fourth group, namely, visible minorities.

Before our break, I asked a question of the Leader of the Government in the Senate about barriers to the advancement of visible minorities in the Public Service of Canada. I raised questions about the study called Embracing Change and the One in Five Initiative, and I raised questions about why visible minorities, being one of the four target groups requiring special measures in order to achieve equality, did not have a secretariat established in the PCO by this government.

Now that the leader of the government has had an opportunity to reflect on these important questions, I would be grateful if he would advise this chamber what specific initiatives are in place, and are taking place, to remove the systemic barriers to the advancement of visible minorities to the executive ranks of the Public Service of Canada?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I recall the question. I have requested a response from the Privy Council Office, which I have not yet received. I will request it again. This will be the third request from me in this regard. I am still not able to give a substantive response to Senator Oliver.

## THE SENATE

### PROGRAM TO PROMOTE VISIBLE MINORITIES

**Hon. Consiglio Di Nino:** Honourable senators, a few weeks ago, I asked the Leader of the Government in the Senate to see if he

could provide to us a report on the progress that this body, the Senate of Canada, has made on the same subject, and I am still awaiting that report. I wonder if he could shed some light on where that report is currently, or how much longer we must wait.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I must reply to Senator Di Nino as I did to Senator Oliver, that when questions reflecting current policy or developing policy are asked of me in relation to departments for which I have no responsibility, I need to request those departments to respond to me. It takes more time than either Senator Oliver or Senator Di Nino may appreciate for the Privy Council Office, which is a coordinating office, to contact other departments, to gather together in committee discussion and to prepare an answer. I assure you that my office is pressing, and I have a very considerable disinclination to allow questions from this chamber to pile up and not be answered. I do seek the answers.

**Senator Di Nino:** Honourable senators, we are talking about our own institution. Such questions should not be difficult to answer. Perhaps I should be asking the question of the Chair of the Internal Economy Committee, to see if we are compiling such information and to see if this body, the Senate, will be receiving that report in the near future.

## PUBLIC WORKS AND GOVERNMENT SERVICES

### AUDITOR GENERAL'S REPORT—SPONSORSHIP PROGRAM—GRANT TO BLUENOSE II FOUNDATION

**Hon. Gerald J. Comeau:** Honourable senators, my question is for the minister. Documents released by the Department of Public Works relating to the sponsorship scandal show that \$2.3 million was directed to the *Bluenose II* project over six years ago, yet the *Bluenose II* preservation trust says that it never received that much money. Now the government is withholding funds from Lafleur Communications and has launched a civil suit to recover the funds.

I have three questions for the minister: First, why did it take six years to discover that money intended for the *Bluenose* was never received? Second, why was there no follow-up by government on a grant of over \$2 million to ensure that the money was, in fact, received by the *Bluenose* society? Third, when does the government expect the *Bluenose* to get the \$2.3 million that was committed to it?

• (1450)

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I am sure the honourable senator knows that the Minister of Public Works in the other place, Stephen Owen, advised that chamber that he had only heard of this matter for the first time on the weekend, and he is now diligently pushing his officials to get the answers to these questions. I hope they will diligently respond, and I look forward to the entire story being known in the near future, as does the honourable senator.



AUDITOR GENERAL'S REPORT—SPONSORSHIP  
PROGRAM—EXAMINATION OF IMPROPRIETIES

**Hon. Gerald J. Comeau:** Honourable senators, as a supplementary, what seems to be happening on a regular basis is that news of these things comes out piecemeal. We pick at a scab or a piece of rot and find out that there is more rot underneath. Should we not be looking at each of these sponsorship funding schemes to find out how much was diverted from worthwhile projects? I agree that the *Bluenose* project was worthwhile, but how much was diverted, and how many other projects such as the *Bluenose* are out there?

With that in mind, would the government leader in the Senate indicate whether we will conduct a more comprehensive study of all of these sponsorship programs across the board to find out just how deep this rot goes?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, as we all know, the Public Accounts Committee in the other place has a mandate to study the sponsorship program in all its glory, and it can pursue these questions. Should the Auditor General wish to conduct a further examination, she has the power to do that under her existing statute.

The question, certainly, with respect to the *Bluenose* and how many other programs are out there is something that we will only learn day by day as people come forward with information and concerns, or we will learn it through all of these investigations. The purpose of the government is clear, and that is to put the entire sponsorship issue out in public view as soon as possible.

AUDITOR GENERAL'S REPORT—SPONSORSHIP  
PROGRAM—GRANT TO WINNIPEG PAN AM GAMES

**Hon. Terry Stratton:** Honourable senators, the sponsorship files on the Department of Public Works Web site show that the Winnipeg Pan Am Games received \$2.3 million. Yesterday, in the other place, it was revealed that executives of the games say that they only received \$640,000.

Can the Leader of the Government tell us who took the money that was to go to the Pan Am Games?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I obviously cannot, and know nothing of it personally, but the process in place exists to determine in that particular circumstance exactly what happened.

AUDITOR GENERAL'S REPORT—SPONSORSHIP  
PROGRAM—ATTENDANCE OF REPRESENTATIVES  
OF GROUPACTION AT CABINET COMMUNICATIONS  
COMMITTEE MEETING

**Hon. Terry Stratton:** Honourable senators, *The Globe and Mail* reports today that Groupaction Marketing was invited into a cabinet committee meeting on communications in 1998. Can the

Leader of the Government tell us why the government did not release the cabinet documents dealing with this meeting at the time when other cabinet documents on the sponsorship program were given to the Public Accounts Committee?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, my understanding is that the initial classification of that meeting related to a program or programs concerning advertising and not concerning the sponsorship program. If it appears relevant, whatever information the Public Accounts Committee requires with respect to that meeting will be available.

AUDITOR GENERAL'S REPORT—SPONSORSHIP  
PROGRAM—PUBLICITY SURROUNDING GRANTS

**Hon. David Tkachuk:** Honourable senators, most of us have been in politics a long time. I find the *Bluenose* and the Pan Am Games incidents all rather interesting because, in most cases, most members of Parliament know exactly what benefits have accrued to organizations within their riding. That is well publicized. They write about it in their news magazine to all their members and their householders. They would know how much money is being given to, for example, the *Bluenose* foundation so that they can brag about it in their local riding. Suddenly, we are hearing about funding being given for community projects that no one knows anything about. Neither the member of Parliament, the cabinet minister, the Leader of the Government in this place nor the local senator know anything about that funding. I find that a stretch, honourable senators, that no one knows about a grant that is given to a member. It is an insult for the Leader of the Government to come here and tell us that neither the government nor the member of Parliament knew anything about this funding; that no one figured this out in all the five to nine years during which these grants have been distributed. I cannot believe that the minister can stand here day after day and say that neither he, the minister, the member of Parliament nor the senator know anything about this funding. Frankly, I do not believe the minister, and no one in Canada should believe that none of us nor any members of the government knew anything. I am surprised at that. I do not think the minister can get away with answering questions in that fashion.

**Hon. Jack Austin (Leader of the Government):** Honourable senators — clearly, the honourable senator did not have a good lunch. What is evident is that when people are determined not to disclose their activities they can, for a period of time, ensure that those activities are not disclosed.

While Senator Tkachuk was asking his questions, the question running through my mind was what did Premier Devine know with respect to events in Saskatchewan? I warrant he did not know very much, or anything at all. What is the difference?

**Senator Tkachuk:** The difference is that 16 members of the legislative assembly were charged with a criminal offence, some of whom were convicted and went to jail, and Grant Devine lost the provincial election in 1991, which is exactly what should happen to your government.

**Some Hon. Senators:** Hear, hear!

**Senator Austin:** Honourable senators, apart from the political rhetoric, which is always fascinating, the issue that the honourable senator put was: Why did the minister or the member of Parliament not know about this situation? Well, why did Grant Devine not know? I do not doubt when he said he did not know, that indeed he did not know. That is a reality in public life, when someone conceals something that they do not want someone else to know.

[Translation]

## HEALTH

### FUNDING TRANSFERS TO PROVINCES

**Hon. Jean-Claude Rivest:** Honourable senators, my question has to do with Canada's health care system. Today the premiers of the provinces and territories are having to resort to an ad in order to raise this so-called new Liberal government's awareness of the urgency of investing more in health services. Imagine what this says about the state of the relationship between the federal government and the provincial governments! The provincial premiers greeted the arrival of Prime Minister Martin with confidence, but their confidence in the new Prime Minister has been betrayed. Since the present Prime Minister has been in charge, not one red cent has been transferred to the governments of the provinces for their burgeoning health care costs. The only thing they did get out of him was a free ticket to the Grey Cup.

Is the federal government going to finally grasp the provinces' need of funding for their health care systems? When will the federal government authorize a significant and permanent transfer of funds so that the provinces can finance this obvious priority?

[English]

**Hon. Jack Austin (Leader of the Government):** Honourable senators, the Government of Canada and the provinces are in a discussion with respect to all health care issues, and as we are well aware, with respect to the coordination of health care priorities, the proposal has been accepted by a number of provinces to create a Canada health council to advise the federal and provincial governments with respect to those priorities.

• (1500)

The federal government transfers a very substantial amount of money to the provinces. The provinces want more, which is the way in which Canada seems to work and conduct itself.

The assumption that the federal government is not interested in the health care of Canadians is not a correct one. The federal government is transferring almost 40 per cent of its entire spending with respect to health care.

When the provinces ask for incremental funding and permanent, new transfer-based funding from the Government of

Canada, there are many reasons to discuss the issues to see just exactly how that money will be spent and how the provinces will deal with the accountability issue.

### DELAYED ANSWER TO ORAL QUESTION

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, I have the honour to present a delayed answer to an oral question posed in the Senate by the Honourable Senator Carney on February 18, 2004, regarding the wharf replacement on Saturna Island at Lyall Harbour, British Columbia.

**The Hon. the Speaker:** A request has been made that the answer be read.

**Senator Rompkey:** The answer is that unfortunately the request from the community was presented too late for this year's Estimates. However, it is being considered in the new budget, and we will look forward eagerly to the item on the Saturna Island wharf appearing in the new budget.

[Later]

### DISTINGUISHED VISITOR IN THE GALLERY

**The Hon. the Speaker:** Before turning to the next item of business, I would draw the attention of honourable senators to the presence in our gallery of our former colleague, the Honourable Lois Wilson.

## ORDERS OF THE DAY

### REPRESENTATION ORDER 2003 BILL

#### THIRD READING—DEBATE ADJOURNED

**Hon. David P. Smith** moved third reading of Bill C-5, respecting the effective date of the representation order of 2003.

He said: Honourable senators will recall that the purpose of this bill is to ensure that when elections are held, they are held on the basis of electoral boundaries that have been updated as recently as possible. What this bill does is very simple: It changes the automatic one-year grace period provided for in the Electoral Boundaries Readjustment Act.

This bill brings forward the implementation date of the new electoral boundaries from August 25, 2004 to April 1, 2004. That is it; that is all. Without this change we would be stuck with an out-of-date electoral map for another four years, were an election to be called before August 25, 2004, and that would be premised on 13 year-old data, from the 1991 census.



The grace period in the act is intended to give the Chief Electoral Officer the time to prepare for and adjust to the new boundaries. However, Mr. Kingsley, the Chief Electoral Officer, made it clear on February 25, in his presentation to a meeting of our Standing Senate Committee on Legal and Constitutional Affairs, that Elections Canada is ready to go with the new boundaries for any election called on or after April 1, 2004.

Some honourable senators have raised the question: If Elections Canada had more time, would they be better prepared? Would a coming into force later on of these new boundaries mean that it would be easier for Elections Canada? The answer, which is on the record, is "no." Mr. Kingsley said that they will be ready for April 1, and he has been saying that now for about eight months. There would be no additional preparation efforts even if the date was changed and moved back several months.

The reality is that the current, longer grace period relates to a different era. The provision in the current legislation dates back to the 1960s when the process did take a long time. The 1960s is now like the Dark Ages in terms of the modern technological advances of computers. To delay the implementation of these new boundaries any longer is really just to postpone fair and more effective representation for Canadians.

I would again remind honourable senators that this bill did enjoy much support in the other place. Four of the five parties supported it, the exception being the Bloc Québécois, and the Bloc was opposed for other, unrelated reasons. I could answer questions if honourable senators are curious about that, but I doubt that any are.

I am sure that honourable senators will want to ensure fair representation. It is our responsibility to have an electoral system that accurately reflects population changes. In particular, we should ensure that Canadians from B.C., Alberta and Ontario, which will receive additional seats in the other place, have those changes implemented as soon as possible.

Some honourable senators have wondered whether this bill interferes with the independence of the electoral distribution process. The independence of the process is something in which Canadians can take pride. This bill in no way interferes with that process. It simply accelerates its realization because of technological advances.

There have also been some concerns raised as to the issue of returning officers. When Mr. Kingsley appeared before our committee, he said that Elections Canada was quite timely in terms of their situation with respect to election officers. There have been several vacancies recently caused by health problems, but this is a normal occurrence, and in fact Mr. Kingsley said to the committee that the training for returning officers has been, in his view, the best ever. He feels that, in terms of training electoral officers, they are in better shape than they have ever been.

Some honourable senators have asked why the government did not implement a permanent fix to the grace period in these proposed changes rather than doing it just for this one time. Mr. Kingsley addressed this issue and said that a seven-month

grace period was found feasible in the early 1990s when the Lortie commission looked into the matter, but that today, with technological improvements, it is even more feasible. Why not a permanent fix? I think there will be a permanent fix. That process might occur in the next Parliament. I have no doubt whatsoever that that issue will be addressed on a permanent basis. However, there are other matters that need to be addressed.

Some honourable senators have toyed with the possibility of having fixed election dates. That is something that I am not really concerned about. I may not agree with every point of view that Senator Cools has with regard to the fixed traditions, but I believe that this is one tradition that is important and inherent in the parliamentary system. I believe that it is incompatible with our traditions to have fixed dates. That is a proposal that I would personally resist, but some people may wish to consider it. I am saying that I agree with you, Senator Cools.

However, it is something that I am sure will be closely examined when the review of the Electoral Boundaries Act occurs in the next Parliament. In the meantime, no-one's rights should be prejudiced by the use of these old maps.

• (1510)

If this bill passes, no one will be prejudiced. Some have said that it might mean we will have an earlier election. That is irrelevant. When an election is called, under the parliamentary system it is up to the government to defend the appropriateness of that decision, regardless of when the election is held.

With regard to which maps are used, the only applicable criteria should be that the new data must be implemented into maps as quickly as possible. That is exactly what this proposed legislation does. I trust that we will be able to view it in that light and move on.

**Hon. Gerry St. Germain:** Will the honourable senator answer a question?

**Senator Smith:** I will.

**Senator St. Germain:** I respect the honourable senator's experience in political activities. He has been very effective and has a tremendous success record.

I would like a further expansion on his view of not wanting a fixed election date. The province from which Senator Austin and I come has now set fixed election dates at the provincial level. Years ago, there may have been reasons why this flexibility was required. This is now strictly an advantage. Regardless of who is involved, I do not believe they should have the advantage of being able to manipulate the date of a federal election call.

I would ask the honourable senator to expand on that somewhat, if he would be so kind. He says that he does not necessarily agree with election dates. He agrees with studying the concept, but we have studied everything to death here. I think that this is a pretty basic, straightforward situation.

**Senator Smith:** That is a fair question, part of a much larger question. The larger question is: Do you prefer the British parliamentary system or the American system of checks and balances?

I personally relate more to the British parliamentary system. I agree that there are outer limits beyond which we cannot go. However, part of the rationale as to how a party winds up in government is because they have a majority and can get legislation through Parliament. If we start down the road of fixing dates, a government that cannot get legislation through will not be able to call an election. We will have to keep that government in place while we wait for a particular date. That is the American system. If the honourable senator prefers the American system, then go for it. I prefer the parliamentary tradition, which is a concept that has been deployed all over the world, mostly in former British colonies. I happen to think that system works.

One could also bring into this debate the issue of whether we move toward an elected Senate. Part of the issue there is: What happens if the Senate says one thing — which it is more apt to do if it gets a mandate from the electorate — and the Commons say something else? We could have a deadlock, which is what they have in the U.S. system, where sometimes the House and Senate cannot agree on anything. If my honourable friend prefers that checks-and-balances system, then go for the American system. Personally, I happen to think the parliamentary system works better and that is where my sympathies lie.

**Hon. Anne C. Cools:** Honourable senators, I heard the honourable senator say that he agreed with me on some things but not on others. I am not sure what the some things or the others were, but it does not really matter.

I wonder if Senator Smith could use this opportunity to elucidate even further on the point of fixed election dates? I am with the honourable senator; I disagree with the notion of fixed election dates.

The real notion is supposed to be that governments in our system hold power precariously, at the mercy, so to speak, of the members of the Houses of Parliament. The notion is that power is held in this very intricate way and that the population has the power to force a government from office as the population wishes.

Senator Smith was talking about a parliamentary system versus checks and balances. I would have thought that the greatest checks and balances on a government are supposed to be the Houses of Parliament. Would the honourable senator comment further?

I was somewhat alarmed, if not dismayed, to see a proposal from a Liberal government in Ontario to create fixed dates for elections. It is more than just the freedom of a government to call an election. The real freedom belongs to the public. The real freedom belongs to the population, that the population, at least in

theory, can be rid of an oppressive government without bloodshed — as a matter of fact, it used to be said, just on the strength of a simple motion of the House of Commons.

**Senator Smith:** Honourable senators, I do not wish to stray too far from the parameters of what Bill C-5 is all about. However, the point that I was making was in response to the question that some senators had raised: Why not fix election dates permanently rather than just this one time? My response was that there is absolutely no doubt in my mind that this issue will be dealt with by the next Parliament, and I fully expect that election dates will be made permanent because there are a number of things that they will be discussing.

Honourable senators have even heard that this group that makes representations is raising the spectre of proportional representation. I do not wish to go down that road.

I have a preference for the fundamentals of the British parliamentary system. I am comfortable with it. Some of these other concepts, such as the one recently introduced in the Ontario legislature, is not a route that I would care to follow.

**Hon. Pierre Claude Nolin:** Honourable senators, Senator Smith is not answering the question. The question is: Why not introduce a permanent feature into the law now? His answer is that he is convinced we will do that in the future. Why not do so now?

**Senator Smith:** The normal study that occurs as part of a larger review has not been undertaken. In response to what the Chief Electoral Officer, Mr. Kingsley, had been reading and knew was being discussed at the House committee as to when Elections Canada could be ready, he said eight months ago that, — “We could be ready by April 1.” The government took him up on it. It is that simple.

If an election is called before the third week of August, then voters in those three provinces would be adversely prejudiced, and that is not necessary.

It is desirable to have a permanent fix. I believe that will occur, but I do not think that should inhibit us from doing this fine tuning in the meantime.

**Senator Nolin:** If someone were to introduce an amendment to add to the proposed legislation before us, and we all agree to accept a permanent feature in the law, would the honourable senator also agree?

**Senator Smith:** Senator Kinsella was not troubled by the principle of a fixed election date when he introduced his bill, which would have done the exact same thing but would have set the date a couple of months later. Why not go with the date that Mr. Kingsley said was easily achievable? The only constraint should be what is technically possible. He was totally satisfied that the April 1 date was technically possible.

On motion of Senator Lynch-Staunton, debate adjourned.



[Translation]

## PUBLIC SAFETY BILL 2002

### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Christensen, for the second reading of Bill C-7, to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety.

**Hon. Donald H. Oliver:** Honourable senators, I will start by congratulating our colleague, the Honourable Senator Austin, on his appointment as Leader of the Government in the Senate. I am sure that his experience, knowledge, and love of this honourable institution will serve him well in his new duties.

• (1520)

Nonetheless, I advise him not to get too comfortable in the corner office. The great Conservative family has finally got back together and the next federal election will be very interesting.

I would like to congratulate Senator Rompkey on his appointment as Deputy Leader of the Government in the Senate. He has the rather unenviable task of dealing with Senator Kinsella on a daily basis. Good luck.

It is a great pleasure for me to take part in the debate at second reading of Bill C-7. This is a very important bill because it refers to privacy and civil liberties. This bill is about more than the government's ability to respond quickly to a serious threat or to a terrorist attack.

[English]

It has been the subject of intense criticism from several quarters because it is perceived to infringe on the privacy and civil liberties of all Canadians. I realize that in response to public outcry and the learned opinions of privacy advocates, the bill has been amended somewhat since it was first introduced. For example, clause 4.82 now includes some limits on the collection, disclosure and retention of passenger information. Nevertheless, despite these amendments, I believe that this bill still erodes the privacy of Canadians and could potentially eradicate the progressive steps that have been taken by governments to date to preserve this fundamental human right for all Canadians.

I also believe that this bill, if enacted, would perpetuate a dangerous trend toward increased racial profiling — a trend that would not only serve to further alienate visible minorities but also, ultimately, to have a detrimental effect on all Canadians.

I am sure that honourable senators were appalled to learn of the experiences of Muslim Canadians in the aftermath of 9/11. On February 26, the Honourable Senator Jaffer painted a painful picture of how these Canadians, including her own husband, have

been detained and questioned for no other reason than they may look like a terrorist. Senator Jaffer told the house: "...the impacts of Bill C-36 have been chilling."

I, too, was shocked to hear about the extensive and pervasive discrimination that these Canadians, many of whom have lived in this country all their lives, have encountered over the past two and one-half years. Their experiences include being persistently harassed by CSIS for no apparent reason, being detained by airport authorities for hours and being questioned about their religious affiliations and country of origin. I was shocked but not surprised. Members of the black community have shared with me their experiences of racial profiling. I have already addressed the Senate on the racial profiling case of Kurt Johnson, the Nova Scotia boxer. Their feelings of alienation, mistrust and fear after these episodes, even months and years later, mirror the feelings of the members of the Muslim community described by Senator Jaffer.

The inquiry report of the Ontario Human Rights Commission into Racial Profiling, released last December, clearly underscores the long-term negative impact of this systemic discrimination on all visible minorities in society as a whole. The inquiry, which heard from some 400 citizens of Ontario, reported: "Racial profiling is much more than a hassle or an annoyance. Those who experience profiling pay the price emotionally, psychologically, mentally and, in some cases, even financially and physically." The inquiry's report quoted researchers from the American Psychological Association who found the effects on victims' of racial profiling to be profound and enduring. These effects include post-traumatic stress disorder and other forms of stress-related disorder, perception of race-related threats and failure to use community resources.

Some of the participants in the commission's inquiry also reported losing their income, either temporarily or permanently, because of profiling. Members of the Muslim and Arab communities, in particular, noted that their job opportunities narrowed because they could not secure jobs that involved travel, particularly to the United States. Other participants in the inquiry told of being handled physically in a needlessly aggressive way by authorities or being made to endure uncomfortable conditions while the profiling occurred. The commission's inquiry further discovered that the effect of profiling extends beyond those who directly experience it and affects families, friends, classmates and neighbours.

In addition, the inquiry report outlined widespread social costs that included significant mistrust in key public institutions and systems such as law enforcement agencies, the criminal justice system and customs and border control officials; a sense of not belonging to Canadian society; a diminished sense of patriotism, expressed by both new immigrants and people whose families have lived here for many generations; a deep frustration, especially within members of the Muslim, Arab and South Asian communities, at being treated like "the usual suspects" instead of being invited to help to solve the problem; a growing reluctance among members of visible minorities to pursue careers in law enforcement, the justice system, politics, teaching, social work or nursing — careers in which visible minorities could play a

leadership role in eradicating racism; and, most disturbing to me, an acceptance that racial profiling is a normal part of life when you are a Canadian of colour and that nothing can be done about it.

Honourable senators, racial profiling has made many Canadians feel like second-class citizens. I agree with Senator Jaffer that we must wait for the outcome of the Arar inquiry before proceeding with the passage of Bill C-7. Only then will we fully understand the impact of existing anti-terrorism legislation. The personal and social costs of perpetuating racial profiling are too great to ignore and point to the prudence of careful consideration.

Honourable senators, consider this as well: The Ontario Human Rights Commission inquiry report included strong evidence that racial profiling does not work. It cited several extensive studies, including a 2001 U.S. Department of Justice report on more than 1.2 million citizen police contacts in 1999. This comprehensive study found that while African and Hispanic Americans were much more likely than white persons to be stopped and searched, they were about half as likely to be in possession of contraband.

Consider these statistics about Canada's changing demographic landscape: The number of people from visible minority communities has doubled over the past decade. Immigration now accounts for more than 50 per cent of Canada's population growth, 47 per cent of the undergraduate students at the University of Toronto and 48 per cent of those at the University of British Columbia. By 2010, more than one-half of the population in Canada's major urban centres will be first generation immigrants. One-half of Toronto's population is currently comprised of visible minorities.

Thanks to progressive immigration laws, millions of non-white Canadians have come to this country from Asia, Africa, the Middle East and points in between. In the process, they have made Canada one of the most, if not the most, multiracial societies in the world. Diversity is a fact of life in this country. This diversity promotes tolerance, increases understanding and awareness, and fosters compassion. I believe that tolerance, understanding and compassion are the heartfelt values of most Canadians. They are proud to belong to a country where they are perceived as caring, just and socially responsible. As the protectors of these values, parliamentarians must not move in haste to establish any measures that might jeopardize them; otherwise, we would surely repent at our leisure.

I would like to comment on how this proposed legislation could have a detrimental effect on the positive steps that governments have taken to date to protect Canadians' rights to privacy.

• (1530)

Jennifer Stoddart, the new Privacy Commissioner of Canada, spoke recently in Washington to the International Association of Privacy Professionals. She recounted Canada's progress in addressing privacy concerns, notably the Personal Information Protection and Electronic Documents Act, or PIPEDA, and I

believe that she shared this progress with a certain amount of pride in Canada's achievements. However, her talk also pointed to misgivings about recent legislative developments in Canada, notably this one — Bill C-7.

Ms. Stoddart cited a recent book by Colin Bennett and Charles Raab called *The Governance of Privacy*. It underscores the contradiction between a government "enhancing privacy protections in the private sector while diminishing them in the public sector in response to concerns about terrorism." She speculated that it might encourage governments to enlist the private sector with its personal information holdings in the war on terrorism. That would be moving us, honourable senators, very close to an Orwellian state.

She also asserted that this speculation is "not fanciful" because, "In Canada, personal information that's collected by airlines and travel agencies — about our travel histories, activities and destinations — now has to be turned over to national security authorities for scrutiny." She believes that in spite of Bill C-7's new limits in the scope of information collected, the bill remains "a troubling prospect... dramatically at odds with fair information principles."

I worry, too, about the potential of this act to erode the basic right to privacy for all Canadians. If worldwide trends are any indication, perhaps we all should be worried.

The 2003 annual report by EPIC and Privacy International reviews the state of privacy in more than 55 countries around the world. It also summarizes important issues and events relating to privacy. This report cites "increased data sharing activities among law enforcement and national security and intelligence agencies" resulting from new laws enacted after September 11, 2001. It laments how these new laws have weakened data protection regimes and have increased profiling. Equally disturbing, it describes "function creep in action" or how "several new laws, originally passed for anti-terrorism purposes, have extended their scope."

There are elements of function creep in Bill C-7 that are reflective of this worldwide trend. That bothers me a lot as a Canadian and as a guardian of fundamental human rights of Canadians. Although I have the utmost respect and admiration for Canada's law enforcement and security agencies, I am concerned about the temptation to use personal information gathered under the auspices of Bill C-7 for other purposes.

Honourable senators, Canada is a world leader in safeguarding the privacy of its citizens. We must remain vigilant in ensuring that new laws do not smudge a clear record of achievement. Above all, we must ensure that all Canadians of all races, religions and ethnic origins remain proud of Canada and feel they belong to a country that values their contributions and respects their rights.

On motion of Senator Kinsella, debate adjourned.



## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I interrupt proceedings to introduce some special guests. I would like to draw your attention to the presence in the gallery of His Worship Bill McQuesten, Mayor of the Town of Lacombe, Alberta and His Worship Ken Greenwell, Mayor of the Town of Ponoka, Alberta.

Welcome to the Senate.

BILL TO CHANGE NAMES  
OF CERTAIN ELECTORAL DISTRICTS

## SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Smith, P.C., seconded by the Honourable Senator Sparrow, for the second reading of Bill C-20, to change the names of certain electoral districts.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, the points canvassed by other honourable senators so far in the debate have covered much of what I want to underscore, but I will make a few points for the record.

First, my problem is not with the specific name changes proposed in the bill. However, we must take a hard look at what the Lortie commission recommended in this regard. Honourable senators will recall that the Lortie commission was specific in its views on this issue. If the commission were to examine this bill, it probably would say, "Wait a minute. There are some issues here."

It is underscored by paragraph 1.4.11 of the Lortie commission report:

We recommend that

- (a) electoral boundaries commissions be encouraged to use other than geographic names to designate constituencies, particularly where this would avoid the use of multiple hyphenation;
- (b) the legislation specify that the name of the constituency not be changed other than during the boundaries readjustment process;

Those points have been articulated. It continues:

- (c) the commissions ask the Canadian Permanent Committee on Geographical Names to suggest names for constituencies where changes are required or contemplated and that the designations of these constituencies and the rationale for the choice be presented in the commission's preliminary reports.

Honourable senators, the task of assigning names to the constituencies really should be left in the hands of the commissions. One of our former colleagues, Senator Allan MacEachen, in 1964, observed, "the task of assigning names to

the constituencies is for the provincial commissions. It is possible for MPs to make representations to the commissions at hearings, but government members will have to take their chances along with opposition members as to the names of their constituencies."

Honourable senators, I would commend to the committee that will examine this bill that they reflect upon the commission report and call several witnesses who are familiar with the Lortie commission report. The committee would make a major contribution if they conducted this study under the light of what the Lortie commission has said.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** It was moved by the honourable Senator Smith, seconded by the honourable Senator Sparrow that this bill be read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read second time.

## REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Smith, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

• (1540)

## AMENDMENTS AND CORRECTIONS BILL, 2003

## SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Bryden, seconded by the Honourable Senator Biron, for the second reading of Bill C-17, to amend certain Acts.

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, this is a bill that has attracted very little attention and understandably so. It may appear that its content is not really that controversial, but it is a bill that reflects a kind of culture that has been developing here, which is why I have taken such an interest in it. When it was here in the fall, I pointed out the long title was completely misleading and raised that as a point of order. The Speaker, in his ruling, said that we cannot interfere with the proceedings in the other place, that they felt the long title was adequate and we would have to live with it. I would have hoped that the other place had been listening and that when the bill was returned to us the long title might have given a little more than what this one does, which gives no indication at all of the content of the bill. I think that parliamentarians should be concerned about that, particularly as bills are not meant just for

experts on procedure who can read legal texts without any effort. They are meant for all Canadians. There are many Canadian who go to Web sites and look up legislation at the provincial and federal level. A bill with a title like this one, "An Act to amend certain Acts," does not really draw any attention. To be told that this is a bill containing only technical amendments and that we should just push it through is the wrong way to go.

In fact, the government with this bill ignores basic procedure by introducing it under a long title that is innocuous, uninformative and even misleading. This objection may seem petty, even childish to some, but I said that all parliamentarians should show some concern as the government continues to introduce bills with titles giving no clear indication of their subject matter. Bill C-17 actually contains real and substantive amendments, in particular to the Lieutenant Governors Superannuation Act, but its authors give no hint of them, preferring to disguise it as simply making technical corrections.

Honourable senators, I intend to touch on some of the content of the bill, which is not so much controversial by itself. I should like to deal with the way the government approaches these matters.

The government has engaged in certain activities without parliamentary approval or parliamentary authority, and is now before Parliament asking for that authority retroactively. Again, this transgression may appear minor, and I am sure there are those who will argue that it is minor, but I am afraid it is symptomatic again of the culture that pervades Liberal governments past and present as they continue to practise disdain for Parliament, as we have seen for too many years.

If we look at clauses 2 to 5, we will see a request to change the title of "commissaire adjoint" to "commissaire délégué" in the Canada Customs and Revenue Agency Act. I do not quarrel with that at all, but I wondered if "commissaire adjoint" was in common use and, if so, why this change was apparently to be done one act at a time, in piecemeal fashion, rather than making the change throughout government. I want to thank my office staff for their excellent research. They went to TERMIUM, the Government of Canada's terminology and linguistic data bank managed by Public Works and Government Services Canada. It lists the title of "commissaire délégué" as having been in use as the Canada Customs and Revenue Agency since at least May 17, 2001. The Web site claims to have accurate, specialized and up-to-date terminology.

If we look at the performance reports for the Canada Customs and Revenue Agency, it shows that the term "commissaire adjoint" was in use in the report for the period ending March 31, 2000, but that "commissaire délégué" was used in the organization chart in the following year. How could this happen? Can an individual in a large government agency, who has been given a particular title by an explicit act of Parliament, just change that title on a whim? If this is the case, is it now the

intention of the government to bring forward legislation to accommodate the desires of each and every individual who occupies each of the thousands of different positions at all levels of the civil service and give them whatever titles they may wish to have?

This brought me to look at another provision of Bill C-17 in clauses 19 to 24, namely, the government's proposal to change the title of the head of the National Round Table on the Environment and the Economy. While I was initially reassured to note that the Web site currently lists as its head a person with the title of "Executive Director," in conformity with the legislation as it stands today, I was surprised to see in the list of staff a person who was called "Executive Assistant to the President and CEO." When we do some more digging, we discover that the previous executive director had made use of the title "President and Chief Executive Officer." Is this change proposed in Bill C-17 yet another example of an individual acting without parliamentary authorization to arbitrarily change his title to whatever he pleases, with a compliant government later stepping in to regularize this predilection of an individual in preference to the expressed will of Parliament?

Honourable senators, a review of the appointments in this particular case shows that the previous holder of the office was first made executive director in August 1996 and was reappointed as executive director for an additional three year term in June 1998. During that period of time, he used a title given to him by Parliament pursuant to the National Round Table on the Environment and the Economy Act. Everything appeared to be in order.

This all changed with the third term when the Order in Council in May 2001 named him "Executive Director of the National Round Table on the Environment and Economy," to be styled "President of the National Round Table on the Environment and the Economy." In other words, the office-holder was essentially an innocent bystander to a bizarre decision by the Privy Council Office. From where did the so-called styling come? Did Parliament delegate to the Privy Council Office a power to unilaterally set aside Canadian legislation and simply substitute whatever title someone across the street might think appropriate? Perhaps they asked random passersby, or perhaps they shot darts at a dartboard. The one thing we do know is that they did not think it worth asking Parliament for its views, not until more than two years after the fact. They were not asking for our views but asking for, once again, our rubber stamp.

Did it not occur to the President of the Queen's Privy Council that unilaterally tampering with the expressed will of Parliament might be wrong? The responsibility is his because this appalling state of affairs arose from this peculiar practice of the Privy Council Office. Rather than simply giving individuals the titles provided by act of Parliament, the Privy Council has taken to giving them that title and then adding the words "to be styled as" with a new title, one not sanctioned by Parliament.



It is easy to see how people appointed in this manner could and would believe that they had authorization to do so. Understanding how the President of the Queen's Privy Council and the Privy Council Office came to believe that there is an authority to change the laws of Canada without the sanction of Parliament is an entirely different matter.

It turns out that this practice of name changing is endemic in this government that also pays no attention whatsoever to Parliament and what its legislation indicates and says. The changes range in significance from the seemingly minor and trivial, as when the "chairperson" of the Canada Foundation for Sustainable Development Technology instead calls himself the "hairman," to much larger name-changing innovations, as when the Canada Foundation for Sustainable Development Technology calls itself Sustainable Development Technology Canada. All this was done without the sanction of Parliament.

We have a bill at committee now, Bill C-8, which is a proposal to combine the National Library of Canada and the National Archives of Canada into a single entity to be called library and archives of Canada.

In the 2003-04 Estimates, Part III, we find Report on Plans and Priorities of the National Archives of Canada and the following statement:

The government intends to introduce a bill, early in 2003-04, to establish the Library and Archives of Canada — the working title of the new institution until the legislation is approved. This legislation will replace the current National Archives Act and the National Library Act. Accordingly, this Report on Plans and Priorities will refer to the new Library and Archives of Canada (or simply the Library and Archives for short).

• (1550)

Note that they called it a "working title," which was fair enough as the legislation had not then been introduced. However, it is now before us, and instead of a working title, that is the actual title proposed. When honourable senators turn, however, to the Web site of the National Archives of Canada, they will find that it identifies itself as "Library and Archives Canada." The ink is not only not yet dry, it has not even been applied in final form as yet, and already the name is different from that proposed by the government in the bill. Perhaps this chamber will oblige them by changing the title in Bill C-8 to accommodate their wishes and save the government the trouble of introducing corrective legislation at a later date.

I have strayed a bit from the bill, but it is linked to the case I am trying to make. As I noted earlier, appointments by Order in Council are in no way exempted from this process. Indeed, the person at the apex of law enforcement is the Solicitor General, the title given her by Parliament, but is styled as the Minister of Public Safety and Emergency Preparedness in her Order in Council appointment, and that is a title which appears everywhere

and which the minister has adopted, although Parliament has yet to abolish the title of Solicitor General. In the current issue of the *Hill Times*, in an interview, the Solicitor General was asked what happened to her old position of Solicitor General and she answered, "It disappeared." It disappeared. Well, I think David Copperfield could not have pulled a better disappearing act than this. The unfortunate and sad part is that it disappeared without any parliamentary authority whatsoever. It still exists on our books. It is still in legislation and is still being used in court cases. The minister, however, feels that she would rather be styled as and given a title that has not been sanctioned by Parliament.

The Solicitor General is not alone. The Minister of State assisting the Minister of Human Resources Development Canada is styled as the Minister of Human Resources and Skills Development, while the Minister of Human Resources and Development Canada herself is styled as the Minister of Social Development. These are large changes, and there are some minor ones as well. It is no longer the Minister for International Trade, but rather the Minister of International Trade.

Setting aside the poseurs and the stylings of the Paul Martin government, this bill is attempting to put corrections into the record by pushing them through Parliament under the guise of "An Act to amend certain Acts." All of this ought properly to be done before any changes are made rather than making alterations and later coming to parliament to regularize actions already taken.

Honourable senators, the democratic deficit has been widening steadily over the last decade under the administration of the Liberal government, and there appears to be no end in sight. The authority of Parliament is regularly set aside, the laws enacted disregarded, and the forms and traditions undermined and ignored.

This brings me back to the beginning of my remarks, in which I was commenting that there were significant amendments to the Lieutenant Governors Superannuation Act contained in Bill C-17, yet the long title of this bill is simply "An Act to amend certain Acts." This does not meet the standard of what constitutes a long title, if for no other reason than that it is a title which could be applied to virtually every amending act brought before Parliament. A bill so widely titled could be about everything or about nothing. While my colleagues opposite may well argue that this is indeed a bill about nothing, I would note that fully 12 of the 18 pages of it relate to the Lieutenant Governors Superannuation Act and amendments to other acts in relation thereto.

This reminds me of Bill C-5, which Senator Smith just discussed. Its title is "An Act respecting the effective date of the representation order of 2003." It is only two pages long. It contains three clauses, but only one clause relates to the title. The other two clauses are completely separate and were never discussed in this chamber by the government, only emphasizing what was in the title. If one were to rely on the debates from the government side, one would never suspect there are in Bill C-5 two clauses that have nothing to do with the representation order.

As I have said, Bill C-17 has a flaw in the long title that ought to be corrected. Apart from that, this Liberal government seems to have at last recognized that it has been acting without legislative authority, contravening the express will of Parliament. I expect that it will not be pleased at having disclosed here what it hoped would be rushed through without any debate, arguing that Bill C-17 contains nothing but technical amendments. Changing names after the fact is not the proper way to proceed, but if the plan is to use names and titles other than those given under the current laws of Canada, parliamentary authorization must be secured first. I trust that others who are inclined to jazz up their resumé and the names of operating units or agencies will not do so until legislative formalities have been secured.

There are those who will say that this is much ado about nothing. I say far from it. It is just another example of Parliament being used as a rubber stamp. It follows in the same pattern as pioneered by Supplementary Estimates, which have become less a government spending plan requiring parliamentary approval and more a list of actual government spending that Parliament is asked to regularize without any ability to participate in the spending decision.

The democratic deficit continues to widen, honourable senators, and it has reached the point where those in the other place, with too few exceptions, are indifferent to any attempt to reclaim their traditional responsibility of power over the purse. Bill C-17 continues the government's patronizing of Parliament. Imagine where it would be if we had an elected Senate?

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, reference was made by Senator Bryden, the mover of the motion for second reading, and now by Senator Lynch-Staunton, to the many pages of the bill before us dealing with the Lieutenant Governors Superannuation Act, which raises an interesting question. I have had the experience, when in the public service, of having responsibility for the Lieutenant Governors Superannuation Act. It used to be administered by the Department of the Secretary of State.

There are many different superannuation regimes, the revenue from which flows from the Consolidated Revenue Fund of Canada. Consider, for example, the Members of Parliament Retiring Allowances Act. As honourable senators know, when members of the House of Commons, who have contributed to superannuation as members of Parliament, come to this house, they do not have the right of access to their pension benefits, having served in the other place. Had they served in a provincial legislature, of course, they could have drawn on their pension fund from the provincial legislature because those funds do not come from the Consolidated Revenue Fund. They come from the revenue fund of the given province.

The paradox — and I would invite the committee to look into this because it is an issue of principle — is that one can be a member of this house and draw a pension from the Lieutenant Governors Superannuation Act.

• (1600)

One could have been a member of the Royal Canadian Mounted Police, become a senator and continued to draw a pension from the Royal Canadian Mounted Police pension fund,

which comes out of the Consolidated Revenue Fund of Canada. One could have been a public servant in the Public Service Commission of Canada and drawn from a federally funded pension plan. One could have been a member of the Canadian Armed Forces, come to the Senate and been able to receive a stipend as a senator and to receive the pension that one had earned as a member of the Canadian Armed Forces. However, if one has served the country as a member of the House of Commons, having been elected, and then come to the Senate, one is not able to draw from the pension benefit that he or she has earned as a member of the House of Commons.

There is something wrong with that. I have not served in the House of Commons. As there are many federal pension regimes, and the money is coming out of the Consolidated Revenue Fund, perhaps the committee would like to look at why members who serve in this place and who have earned benefits as members of the House of Commons are the ones who are excluded, whereas there are many other federal funds or regimes on which they could draw.

In the last session, my colleague Senator Bryden queried my own involvement as a university professor in one of the provinces and whether I was double-dipping by continuing to be a university professor. My friend opposite, as a keen student of the law, would have known that education is under provincial jurisdiction so, clearly, the pension benefits under the provinces' education regimes, including universities, is provincial.

I wish to make the point that there is an anomaly. It is unfair. This would be an opportunity for the committee to look at the whole situation and come up with a solution.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read second time.

#### REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Bryden, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

#### FEDERAL NOMINATIONS BILL

#### SECOND READING—DEBATE ADJOURNED

**Hon. Terry Stratton** moved second reading of Bill S-13, to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions.

He said: Honourable senators, it is a great pleasure to reintroduce Bill S-13, as I have done twice before in previous sessions. This is a bill to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions.



As honourable senators will know, this is the third time I have introduced this bill, which would bring sunshine and transparency into the appointment process of individuals who are currently appointed through the Order-in-Council process to high-level positions. It is an attempt to curb the power that has accumulated in the office of the Prime Minister over the past decade. It is an attempt to address the perception that the Supreme Court is politically partisan and that the court, rather than Parliament, has the final say on legislation.

The Prime Minister holds incredible power to appoint people to positions of such a high level that they have the ability to affect the everyday lives of Canadians. As I have said before in this chamber, the Prime Minister chooses his cabinet; he chooses the deputy minister of every department; he chooses the Clerk of the Privy Council, and he appoints the Supreme Court justices and other federal judges. The Prime Minister appoints the heads of Crown corporations, the head of the RCMP, the Chief of the Defence Staff and, of course, ambassadors and other senior representatives of the government. The Prime Minister also appoints members of the Senate.

On the Privy Council Web site, the Orders-in-Council page reveals appointments for the year 2003. I was astonished to find a document of 100 pages, with five appointments per page on the site. Narrowing the search for appointments from the Prime Minister's office alone for 2003 shows over 125 appointments made.

Other than cabinet ministers, how much does anyone know about the people being appointed to these high-level positions? How much power is delegated without any parliamentary input or review?

The new Prime Minister, the Right Honourable Paul Martin, made democratic reform a key plank of his leadership campaign and his new government. During his leadership campaign, Mr. Martin presented a six-point plan that included reform of government appointments. In his speech to Osgoode Hall on October 21, 2002, Mr. Martin said:

We should reform the process surrounding government appointments.

The unfettered powers of appointment enjoyed by a prime minister are too great; from ambassadors and consuls general to regulatory agencies to museum boards and the list goes on. Such authority must be checked by reasonable scrutiny conducted by Parliament in a transparent fashion.

When it comes to senior government appointments we must establish a process that ensures broad and open consideration of proposed candidates.

More recently, the Prime Minister has stated that the government will consult with the appropriate House standing committees on how best to proceed on prior review of appointments to certain key positions, including heads of Crown corporations and agencies.

The Prime Minister has also indicated that he will consult with the Standing Committee on Justice and Human Rights on how best to implement prior review of appointments of the Supreme Court of Canada justices. In the last session, the House of Commons Standing Committee on Justice and Human Rights was seized with the motion M-288 that stated:

That the Standing Committee on Justice and Human Rights study the process by which judges are appointed to courts of appeal and to the Supreme Court of Canada.

Just recently, the Minister of Justice has said that a protocol is needed so that Canadians will understand how Supreme Court judges are appointed. Minister Cotler is planning to undertake a review to determine if there is a better approach for appointments.

I would now refer to some newspaper articles that came out last week when we were not sitting. The first is from *The Globe and Mail* of Saturday, February 28, 2004. In an hour-long interview with a cable television show in Vancouver, Mr. Martin argued that the office of the Prime Minister should not have the unparalleled power to make appointments that it has now. I quote:

Strong democracy really means this power has to be shared...so on appointments, I don't think people should just be plucked out of thin air and put into a Crown corporation.

• (1610)

The Prime Minister told interviewer Vaughan Palmer, political columnist for *The Vancouver Sun*:

Democracy says there should be parliamentary review.

Mr. Martin said also that he wants a parliamentary committee to scrutinize future judicial appointments to the Supreme Court of Canada, starting with the replacement of Madam Justice Louise Arbour.

There was an astounding article in the *Winnipeg Free Press* of Sunday, February 29, by our own Senator Carstairs regarding the appointment of senators:

Certainly, the Senate in 2004 cannot continue to be chosen by personal appointment of the prime minister.

Shades of Meech Lake. I want you to listen to this quotation from this article. If it is not the Meech Lake accord, I would like to know what it is. We all know what Senator Carstairs felt about the Meech Lake accord. Here is what she says:

However, there is an alternative. The Senate could be reformed, without amending the Constitution, by the prime minister agreeing to appoint senators from lists presented to him by the provinces and territories. Within 90 days of a death or retirement of a senator, the home province or territory would submit a list of five names. These names must have had the approval of a majority of members of all parties represented in the legislative assembly.

If that is not the Meech Lake accord, I do not know what is. Honourable Senator Carstairs was vehemently opposed to the Meech Lake accord.

**Senator Cools:** She is known to change her mind frequently.

**Senator Stratton:** Now there is a complete turnaround. In this revisionist history, she is on the side of Meech Lake.

**Senator Lynch-Staunton:** A true Liberal flip flop.

**Senator Stratton:** Now, I quote from an editorial in *The Globe and Mail* on March 1, 2004, entitled "Let's find new ways to judge the judges":

The options Britain is putting forward centre on a judicial-services commission — a panel of knowledgeable people who would appoint senior judges. In one option, the commission would offer a short list to the government, which would make the final choice. (This is similar to a system in place in Ontario for the selection of provincial court judges. The system was devised to minimize political patronage.) Another option would present a recommended choice to the government. A third option is for the commission simply to make the appointment itself.

But who appoints the commission? What sorts of people should be on it?

Honourable senators, that is the question. They go on to say:

That commission could include law deans, leaders of the bar, retired chief justices, perhaps some eminent laypeople; it might also include MPs. This committee could interview candidates in public. It could produce a short list of, say, three choices, and in the end the prime minister would have the final say.

That is just to give you last week's information as it is coming out with respect to the appointment process in order to make it more transparent.

I will never forget the Honourable Sharon Carstairs, a Meech Lake convert. There is a broad discussion ongoing, and even more so now, and it is more apparent that this must take place. I would like to go on and say that there is some consensus. There is a significant amount of consensus now for Parliament to be involved in the appointment process.

My bill provides an approach for parliamentary review, indicating approval or disapproval of some of the key positions in government based on the order of precedence. This would make some of the most important appointments transparent and public and would ensure parliamentary involvement.

Honourable senators, this bill outlines a process to identify and assess candidates and to provide for parliamentary review of these appointments through an appearance before the Senate Committee of the Whole. I have specified the Senate Committee

of the Whole as the proper vehicle for this procedure because, as a chamber, we are less political than the House of Commons. We represent the regions of Canada, and we have proven to be effective in the past when dealing with federal officials who have appeared before us.

Many have expressed the concern that a review of appointments, particularly appointments to the Supreme Court, would develop into the American process of confirmation hearings. Indeed, Professor Edward Ratushyn, professor of law at the University of Ottawa, arguing last November before the Standing Committee on Justice and Human Rights, said:

Confirmation hearings in the United States have come to resemble election campaigns dominated by special interest groups. The central objective is to determine the kind of person the candidate is and the kind of judge he or she is likely to be. The problem is not that parliamentarians are incapable of understanding the judicial role and conducting restrained, intelligent and relevant questioning of candidates. I'm sure all of you are able to do that. The problem is that there will be very little political interest in doing so. On the contrary, public expectations, interest group pressures and political instincts will cause many to engage in political campaigns, often through the vehicle of judge bashing.

With all respect to Professor Ratushyn, I would argue that the Senate, as an appointed chamber, has an advantage in reviewing appointments to high positions because we do not face the same political pressures from interest groups as does the elected chamber.

Honourable senators, this bill would establish a committee of the Queen's Privy Council for Canada to develop public criteria and procedures for the selection of individuals for positions listed in the schedule, such as the Governor General, the Chief Justice of Canada, the Speaker of the Senate, the Lieutenant Governor of a province, the commissioner of a territory, a judge of the Supreme Court of Canada, and senators. The committee would also seek out and assess candidates for these positions, and then make recommendations to the cabinet. A minister who intends to recommend someone for an appointment to one of these positions would choose from among the candidates recommended as eligible.

The bill also provides for parliamentary review of appointments within a specified time period. The Senate Committee of the Whole will invite persons listed in Schedule 1 to discuss the nominee's eligibility and qualifications for the position, and his or her views on the responsibilities of the position. If the Senate does not invite the nominee to attend the Committee of the Whole within three sittings of the Senate, the appointment may be made without parliamentary approval.

If there is urgency to the appointment, clause 11 provides that the appointment can be made, and hearings scheduled after the appointment is made. Following the hearing, either House of Parliament may adopt the resolution approving the nomination.



The Senate Committee of the Whole hearings could be televised, giving the public the ability to see the person being nominated for the high office and hear his or her views. The process is public, transparent, and gives Parliament a role to play in the nomination process. It would, as Prime Minister Martin has stated, provide a check to the authority of the prime minister through "reasonable scrutiny conducted by Parliament in a transparent fashion."

Senators may note that clause 8 of this bill deals specifically with the selection, review and appointment of senators. Honourable senators will note that the clause starts out by saying:

A minister of the Crown who proposes to recommend an individual to be summoned to the Senate...

This, of course, refers to the prime minister. Since October 26, 1935, in the time of Mackenzie King as Prime Minister, by minute of the Privy Council, only the prime minister may recommend the appointment of senators to the Governor General. I happen to have those minutes with me.

However, just in case this prerogative may pass to some other cabinet minister in the future, we believe it is more appropriate to simply list "Minister of the Crown." Under clause 8, it is the prime minister who puts forward a list of names, assessed by the nominations committee, in front of the provincial premier. The provincial premier has a certain period of time within which to select from the list. Should the premier not act within the prescribed period of time, then the prime minister may recommend someone from the nominee list to the Governor General for appointment.

• (1620)

Critics of the bill have argued that it unduly interferes with the Crown's prerogative and that Royal Consent must be given before the bill is dealt with further. The Speaker has made it clear that Royal Consent can happen at any time before the bill becomes law. The government has signalled its intentions that there must be a review of the process for appointments. I therefore urge honourable senators to refer this bill to committee for open debate of the process contained therein and whether it would accomplish the desire for transparent and public appointment to high federal office.

On motion of Senator Milne, debate adjourned.

## STATUTES REPEAL BILL

### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Moore, for the second reading of Bill S-11, to repeal legislation that has not been brought into force within ten years of receiving royal assent.—(*Honourable Senator Cools*).

[ Senator Stratton ]

**Hon. Tommy Banks:** Honourable senators, it is my understanding that if I were to speak now to Bill S-11, it would have the effect of closing the debate. In the absence of another senator wishing to speak to the bill, I would move that it be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

**The Hon. the Speaker *pro tempore*:** Is there an honourable senator wishing to speak to the bill? Are honourable senators ready for the question?

**An Hon. Senator:** Question!

**The Hon. the Speaker *pro tempore*:** Honourable senators, is it your pleasure to adopt the motion?

**Hon. Senators:** Yes.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

**The Hon. the Speaker *pro tempore*:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Banks, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

## THE CONSTITUTION ACT, 1867 THE PARLIAMENT OF CANADA ACT

BILL TO AMEND—SECOND READING—  
MOTION IN AMENDMENT  
TO REFER SUBJECT MATTER—DEBATE ADJOURNED

**Hon. Donald H. Oliver** moved second reading of Bill S-3, to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate).—(*Honourable Senator Oliver*).

He said: Honourable senators, I am pleased to speak briefly today to this private member's bill designed to amend the Constitution of Canada to permit the Speaker of the Senate to be elected.

Honourable senators, the new government of the Right Honourable Paul Martin produced an action plan for democratic reform dated February 4, 2004. The document deals with ethics, responsibility and accountability. The introduction states:

Democracy is an active process — one that requires ongoing engagement between citizens and their elected representatives. Democratic institutions must constantly adapt and change in order to ensure that the process continues to work the way it was intended.

Honourable senators, there is nothing in the action plan about an elected Speaker for the Senate but there should have been. The plan states:

This action plan for democratic reform is the first step in a strategy aimed at improving our political institutions and parliamentary systems.

Honourable senators, I think that our parliamentary system could be substantially enhanced if this body of sober second thought could have a Speaker elected by the members of the chamber and not appointed by the executive branch.

I was delighted to see the appointment of the new Leader of the Government in the Senate, the Honourable Jack Austin, because of his long-standing interest in parliamentary reform and, indeed, the reform of the Senate of Canada. In respect of my presentation to this honourable chamber on March 20, 2003, Senator Austin said: "I want to begin by expressing my appreciation for the hard work that Senator Oliver has put into this address. It is a most interesting subject."

Later, Senator Austin said:

I heard the deputy leader on the opposition side say that it has unanimous support in the opposition caucus. I wonder whether you might give consideration to a less difficult procedure? For example, should the chamber believe that it would be best served by electing a Speaker, we could avoid constitutional measures by passing a resolution that would request the Governor in Council to appoint a Speaker on the advice of the Senate, that advice being given, of course, through a secret ballot election. If we could persuade the prime minister of the day and his cabinet to do so, then the substance of your submission would be achieved without the necessity of a constitutional proposal.

Later, he said:

I have no quarrel with the honourable senator with respect to his submission in terms of the Constitution. I was not suggesting a constitutional change but a change along the same substantive lines being proposed. These would, of course, be with the cooperation of the Governor in Council.

This chamber could ask the Governor in Council to not give advice to the Governor General with respect to the appointment of a Speaker, unless and until the Senate has expressed its view. That would be an informal procedure. That was the basis of my question about whether the interest was in opening the Constitution or in achieving, in effect, the election of a Speaker.

Senator Austin also said:

I do not want to call what I have said a proposal, but I am suggesting that the power constitutionally would always remain with the Governor in Council. However, the Governor in Council could, as a matter of custom — comity, to use the old common law phrase — adopt a different process if so wished.

The fundamental question is whether what is being sought is to make a substantive change or to open the Constitution. Senator Oliver's answer is that his interest is in making the change to the way in which the Speaker is selected.

Senator Austin went on to say:

Honourable senators, it comes down to...whether one wishes to get to first base or to hit a home run. What are the odds?

In speaking at second reading of Bill S-3, and in view of the intervention of the Leader of the Government in the Senate the last time this bill was before us, whom I now understand has sent a memorandum to the Prime Minister with respect to this proposal, it is my hope that Bill S-3 can move quickly to committee so that witnesses can be called about the Austin formula.

Honourable senators, Senator Austin's suggestion was that an elected Speaker of the Senate could be achieved through informal, non-constitutional means. Rather than amend the Constitution of Canada as proposed by Bill S-3, he suggests that the Senate ask the Governor in Council not to give advice to the Governor General with respect to the appointment of the Speaker unless and until the Senate has expressed its view. Constitutionally, the power would remain with the Governor in Council but the Governor in Council could, as a matter of custom or comity, adopt a modified process.

The suggestion avoids formally changing or amending section 34 of the Constitution Act, 1867. As such, it would not involve opening up the Constitution or raise any questions to the appropriate constitutional amending formula. It would, of course, require the consent or agreement of the Governor in Council. It would also, presumably, require the development of procedures or protocols for the election of a Speaker by the Senate.

If the Senate and the Governor in Council were agreed, the effect would be the same as that enshrined in Bill S-3: that the senator selected by the Senate would be appointed the Speaker of the Senate.

Since the Governor General only acts on the advice of Governor in Council — that is, the cabinet — if the Governor in Council agreed to only recommend the appointment of those persons who were selected by the Senate as Speaker, the process would effectively be changed.

• (1630)

Since this suggestion rests on the agreement of the Governor in Council, it is not irrevocable and not guaranteed. That is very much like Senator Austin's suggestion of the double majority raised in relation to the ethics package. The undertaking not to appoint a Speaker unless he or she has been elected by the Senate could be broken or could be ignored. There could be a political price to pay for this, but legally and constitutionally, the Governor in Council would seem to be within its rights. Similarly, if advice were tendered to the Governor General contrary to the undertaking of the Governor in Council, the Governor General would be bound to follow such advice.



Constitutional conventions can develop, however. Generally, they arise in areas where the law or the Constitution is silent. It is not generally considered possible for a constitutional convention to override or nullify an express constitutional provision — something that is already there. Thus, for instance, there are provisions in the Canadian Constitution for disallowance and reservation. The federal power of disallowance of provincial legislation, section 90 of the Constitution Act, 1867, was last used in 1942.

Is this power or provision already spent? Clearly, its use in the modern era would provoke an outcry and be seen as an unjustifiable infringement on provincial legislative sovereignty. While there are arguments that the power has lapsed, the better view is that it continues to exist until an amendment is made to the Constitution.

If a convention cannot develop, which is at variance with the express constitutional provision, is there some way of securing the agreement of the Governor in Council? Decisions by one cabinet will generally be respected by successors or amended in an appropriate way. However, as the Pearson Airport case illustrated, this is not always the case. In appropriate cases where political and partisan issues come to the forefront, subsequent cabinets may repudiate or feel that they are not bound by decisions of their predecessors. It is possible to put in place agreements and obtain undertakings that would hopefully make it more difficult, practically or politically, to go back on an agreement to appoint as Speaker only a senator who had been elected by the Senate. It would, however, not be possible without a constitutional amendment to ensure that this decision was not revoked or ignored in the future.

There is some precedent for the development of a commitment before exercising a right or power under the Constitution. On November 27, 1995, for instance, the federal government unveiled its response to the Quebec referendum outcome and to commitments that had been made by the Prime Minister during the referendum campaign. The government announced, among other things, that it would introduce Bill C-110, requiring the consent of Quebec, Ontario and the Atlantic and Western regions before the government could introduce certain constitutional amendments in Parliament, thus giving those provinces and regions the appearance of a veto over constitutional amendments. British Columbia was later added as a fifth region.

Bill C-110 was a bill that would not seem to be envisaged or required under Senator Austin's suggestion. There are other non-constitutional or informal alternatives. For instance, it would be possible to develop a procedure for ratifying the appointment of the Speaker under the existing provisions of the Constitution. This would amount to a "vote of confidence" in the appointee. It would be difficult for a person who does not enjoy the confidence of the Senate to continue in the position, although, of course, there is no requirement for the government to respect such a vote.

Another option perhaps would be for the Senate to present lists of possible Speakers from which the Governor in Council could select one. The issue, therefore, becomes one of deciding whether a non-constitutional solution, such as that advanced by Senator

Austin when I spoke in March last year, has advantages in terms of being easier to get adopted. As the honourable senator said to me, "Am I interested in hitting a ball to first base or a home run?" I would like to hit a home run. While informal extra-constitutional options would be less secure, they could be almost as effective and easier to achieve.

If this option is acceptable, how can it be developed and implemented so as to secure the future as much as possible? While it may not be the ideal solution, it may also avoid other difficulties, such as opening up the issue of Senate reform at the constitutional level and determining which constitutional amending formula applies to this change. Honourable senators will remember that Senators Joyal, Beaudoin and others spoke the last time about whether it is necessary to invoke the major formula for the amendment of the Constitution that would involve the provinces.

It should be noted that Bill S-3 would also amend the Constitution Act, 1867, to provide for a voting procedure similar to that of the House of Commons where the elected Speaker of that House may not vote except when the votes on a question are equally divided. Currently, as honourable senators know, our Speaker can vote.

The bill would also make amendments to the Parliament of Canada Act, including provisions for the appointment of a Deputy Speaker. If the bill were not proceeded with, these provisions would also not be implemented. There might, however, be agreement to proceed with the proposed amendments to the Parliament of Canada Act.

Honourable senators, as I said earlier, changes to the manner of the selection of the Speaker of the Senate would require an amendment to the Constitution because of the wording of the existing provisions. In considering a constitutional amendment for this purpose, an issue arises as to whether the federal Parliament may act alone or whether some other part of the constitutional amending formula from the Constitution Act, 1982, requiring provincial agreement would apply.

Honourable senators know that section 44 reads as follows:

44. Subject to sections 41 and 42, Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons.

That is the provision that I rely upon for saying that there is authority for Parliament to act alone, without the consent of the provinces, to make this simple change to have our Speaker elected.

This section has been used to amend certain provisions of the Constitution. For example, in 1986 it was used to amend section 51 of the Constitution Act of 1867 regarding the readjustment of representation in the House of Commons. Section 41 of the Constitution Act, 1982, requires unanimity for certain amendments. This section does not apply to the proposed change to the selection of the Senate Speaker.

Section 38 sets out the general amending formula for constitutional amendments. Section 38(1) reads:

An amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by

(a) resolutions of the Senate and House of Commons; and

(b) resolutions of the legislative assemblies of at least two-thirds of the provinces that have, in the aggregate, according to the then latest general census, at least fifty per cent of the population of all the provinces.

Section 42 goes on to specify that certain amendments are to be made in accordance with this general amending formula. The most relevant for the present purpose is section 42(1)(b), which reads:

An amendment to the Constitution of Canada in relation to the following matters may be made only in accordance with subsection 38(1): ...

(b) the powers of the Senate and the method of selecting senators;

Honourable senators, Bill S-3 is not about the method of selecting senators. The selection of the Speaker of the Senate is not currently a power that is enjoyed by the Senate or senators. Rather, under the Constitution Act, 1867, this is a power that is exercised by the Governor General. There is, therefore, an argument that because it is a change in the powers of the Senate, the amendment would be required to be sought under the general amending formula of the Constitution Act, 1982.

• (1640)

The *Senate Reference Case* was a reference to the Supreme Court of Canada by the federal government with respect to proposed legislative changes to the Senate. The case predates the Constitution Act of 1982 and therefore, from a legal point of view, must be viewed with some caution as it may have been expressly or implicitly overruled or superseded by the 1982 constitutional amending formula. The case is, however, relevant with respect to the issue of those Senate powers and characteristics that are within the federal government's sole jurisdiction to change and those which were part of the "constitutional bargain" at the time of Confederation, and in which the provinces have an interest.

In the *Senate Reference Case*, the court put emphasis on the preamble to the Constitution Act, 1867, and in particular to the "Desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in Principle to that of the United Kingdom." This leads to an examination of the composition and organization of the House of Lords. The fact that the Lord Chancellor presides over sittings of that chamber, and is appointed by the government, would seem to lend weight to the argument that a change in the appointment or selection of the Speaker of the Senate requires some provincial input or consent.

From an historical perspective, the argument could also be made that the Senate was intended to be within the control or ambit of the government and of the Prime Minister, through advice to the Governor General. The appointment of senators and other aspects of the Senate were designed in the interests of the government of the day. The appointment of the Speaker of the Senate could be seen as part of this overall essential design or plan.

Bill S-3 would also be amending the voting rights of the Speaker. While this change would reflect recent practice in the Senate, and is consistent with the procedures and practices in the House of Commons and provincial legislatures, it also raises some questions about whether such a change can be achieved by Parliament alone. Again, reference could be made to the preamble to the Constitution Act, 1867 and the *Senate Reference Case* and to the history of the Senate. Could it be suggested that the denial of the vote to the Senate Speaker affects the rights and powers of a province or region by reducing the votes that senators from that province and region are supposed to enjoy in the Senate? While comparable procedures exist in other legislatures, it could be argued that the unique role and circumstance of the Senate raise different issues.

The issue here, honourable senators, is certainly not free of doubt. On the one hand, this seems to be a very minimal change that would not basically affect the role or powers of the Senate. However, on a strict and more legalistic reading, it is arguable that the provinces might have to be consulted.

It is worth noting that the Speaker of the Senate currently plays a much lesser role than the Speaker of the House of Commons in the administration of the Senate as well as in the chamber. Speakers' rulings can be appealed to the Senate and the powers of the office under the *Rules of the Senate* are limited. The Speaker of the Senate is not a member of the Standing Committee on Internal Economy, Budgets and Administration, whereas in the House of Commons, the Speaker is a member of, and chairs, the comparable Board of Internal Economy. If the Speaker of the Senate were to be elected, it is arguable that many of these attributes of the office will need to be examined.

I personally feel that the Speaker of this place should have a major role, and indeed should chair our Standing Committee on Internal Economy, Budgets and Administration. Change in the manner of selection of the Speaker of the Senate would require the development of a process or procedure for the selection. Bill S-3 refers to the use of a secret ballot, and this model is used in the Canadian House of Commons and in other legislatures. It should also be noted that provision would have to be made for someone to preside over this election.

At present, the Speaker of the Senate is appointed whenever a vacancy occurs, and a Speaker is always in place before the opening of a new Parliament or session. This would not necessarily be the case under the new system. The incumbent may have ceased to be a senator, or died, but the Senate must meet in order to elect a successor. Whether Bill S-3 is proceeded with or not, or some alternative approach is adopted, the *Rules of the Senate* will have to be amended to implement the necessary procedural changes simply for that.



In conclusion, honourable senators, two basic issues arise in connection with the proposal to change the process for the selection of the Speaker of the Senate. First, should it be achieved by means of a constitutional amendment or would it be satisfactory to do it by informal, extra-constitutional means? Second, if it is decided to proceed by means of an amendment to the Constitution Act, of 1867, can it be achieved by the federal Parliament alone — and I say it does — or does it require the consent of at least seven provinces representing at least two-thirds of the population of Canada?

Given the issues that I have tried to briefly outline, one option I prefer is to refer this Bill S-3 or the subject-matter of this bill to the Standing Senate Committee on Legal and Constitutional Affairs for review and for the committee to seek legal opinions on the issue and to consult procedural and constitutional experts on how the changes could be implemented. The implications of changing the selection process for the office of Speaker of the Senate could also be reviewed.

#### MOTION IN AMENDMENT

**Hon. Donald H. Oliver:** I move, therefore, that the subject matter of Bill S-3 be sent to the Standing Senate Committee on Legal and Constitutional Affairs for further study, and that that committee report back to this chamber when their study is completed.

**Hon. Bill Rompkey (Deputy Leader of the Government):** I move the adjournment of the debate.

**The Hon. the Speaker *pro tempore*:** Is there unanimous consent that Senator Oliver may amend his motion?

**Senator Oliver:** To have it sent to the Standing Senate Committee on Legal and Constitutional Affairs for study.

[Translation]

**Hon. Fernand Robichaud:** Honourable senators, just so we are all clear, at the end of his speech, Senator Oliver moved that Bill S-3 be sent to committee for study and then be reported. If I understand correctly, one day's notice is required in order to move such a motion. Can Senator Oliver's motion be now put?

[English]

**The Hon. the Speaker *pro tempore*:** Is there unanimous consent that Senator Oliver may amend his motion?

**Senator Rompkey:** I wanted to adjourn the debate. There are many issues here. We have just heard Senator Oliver speak now. He has raised many questions and I think we need some time to analyze what he said. Other people will want to take part in the debate. Surely, Senator Oliver would not want to rush it through. I know he would not because he believes in democracy, freedom of speech and in people participating in the debate, and as that is the position he will take, I am sure he would agree to the adjournment of the debate so that others can take part. I do not say this to in any way speak against the proposition. As a matter of fact, personally I would support the proposition. I just want

some time to analyze the issues that Senator Oliver has raised today, and I think it is appropriate that we do that. Because of that, I would like to adjourn the debate.

• (1650)

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, what is Senator Rompkey moving the adjournment of the debate on? Is it the motion to refer the subject matter to committee, or is it the adjournment of the debate on the motion for second reading?

**Senator Rompkey:** I am adjourning the motion that is on the floor.

**Senator Kinsella:** Which is what?

**Senator Lynch-Staunton:** There can only be one at a time.

**Hon. Anne C. Cools:** What I heard, honourable senators, for your enlightenment, was that Senator Oliver very properly moved a motion to send to committee not the bill but rather the subject matter, particularly the subject matter — not the second reading, but the subject matter of the bill. Then I heard Senator Rompkey rise and take the adjournment. The question before us would have been Senator Oliver's motion to send the subject matter to the committee, so that is what Senator Rompkey would have been taking the adjournment on.

**Senator Kinsella:** Agreed. That is understood. Question!

**The Hon. the Speaker *pro tempore*:** It is moved by the Honourable Senator Rompkey, seconded by the Honourable Senator Robichaud, that further debate on this motion be adjourned until the next sitting of the Senate.

**Senator Kinsella:** No, that is not the motion. The motion that is to be put is the motion by Senator Rompkey, who has moved the adjournment of the debate on the question of referring the subject matter to the committee.

**The Hon. the Speaker *pro tempore*:** Is there agreement?

**Senator Kinsella:** Yes, we agree.

**Hon. Senators:** Agreed.

Motion agreed to.

#### 2002 BERLIN RESOLUTION OF ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE PARLIAMENTARY ASSEMBLY

#### REPORT OF HUMAN RIGHTS COMMITTEE— ORDER STANDS

On the Order:

Resuming debate on the consideration of the second report of the Standing Senate Committee on Human Rights (clarification of its mandate), presented in the Senate on February 17, 2004,

[ Senator Oliver ]

And on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Stratton, that the Report be not adopted, but that the Order be discharged and the Report withdrawn.—(*Honourable Senator Prud'homme, P.C.*)

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, that is not the proper motion before us either.

**Senator Lynch-Staunton:** We have dealt with that.

**Senator Kinsella:** The matter before us is a motion that this order be struck from the Order Paper, and that debate is the debate before us. Senator Prud'homme is holding the adjournment on it, so I think we should just stand the item.

Order stands.

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

### COMMITTEE AUTHORIZED TO STUDY PRIVATE MEMBERS' BUSINESS—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Poy:

That the Standing Committee on Rules, Procedures and the Rights of Parliament study the manner in which Private Members Business, including Bills and Motions, are dealt with in this Chamber and that the Committee report back no later than November 30, 2004.—(*Honourable Senator Poy*).

**Hon. Vivienne Poy:** Honourable senators, I rise today to speak in support of Senator Carstairs' motion to authorize the Standing Committee on Rules, Procedures and the Rights of Parliament to study the manner in which private members' business, including bills and motions, are dealt with in this chamber. I should like to focus on the way in which the other place, in effect, brings back legislation. As we know, there is no similar procedure in the Senate.

Please note that as far back as March 1996, in the Second Session of the Thirty-fifth Parliament, the Honourable Herb Gray proposed in the other place that, during the first 30 sitting days, when proposing a motion for first reading of a bill, if the said bill was in the same form as at the time of the prorogation, that it should be deemed to have been considered and approved at all stages completed at the time of prorogation.

The Honourable Herb Gray's proposal applied to only the Second Session of the Thirty-fifth Parliament, to both government and private members' business. At that time, the Standing Committee on Procedure and House Affairs was tasked to examine the procedures related to private members' business.

In November 1998, the Standing Committee on Procedure and House Affairs recommended that the Standing Orders of the other place be amended to allow for the reinstatement of private members' business. Section 86.1 in the Standing Orders states that "the said bill shall be deemed to have been considered and approved at all stages completed at the time of prorogation," provided that "the said bill is in the same form as at prorogation."

In support of her motion, I concur with Senator Carstairs that consideration should be given to amending the procedures of the Senate in a similar fashion as in the other place. To not undertake this review of existing procedures would suggest that the work in this chamber has less merit than that of the other place.

Honourable senators, there is much current attention on making government more efficient and less costly. The current legislative process as it stands for private members' business is far from efficient, nor is it cost effective.

We are now in the Third Session of the Thirty-seventh Parliament. Just to cite recent events, in the first and second sessions, 10 private members' bills were introduced in both sessions. Of these, almost half went to committee twice, entailing resources of these committees and requiring the recall of witnesses. In fact, third reading of one bill in the Senate occurred twice, but it did not get to the other place.

To continue with our existing procedure is a waste of senators' time and energy and an inefficient use of the limited time and resources of our offices, as well as the committee that performs such valuable work in the Senate. The time, effort and cost of witnesses who are recalled to appear before a committee time and again should be a great concern to many of us in this chamber. Many of these witnesses have to travel from across the country to appear. Is this fair to them? Should this be necessary? It certainly is not cost effective. I believe Canadians are tired of our tax dollars being spent rehashing the same arguments, the same debates and the same bills over and over again.

Honourable senators, a study by the Standing Committee on Rules, Procedures and the Rights of Parliament into the manner in which private members' business is dealt with in this chamber is long overdue. Let us vote on this motion and send this matter to committee for further study.

**Hon. Anne C. Cools:** Honourable senators, I have followed the debate with some care. I wonder if Senator Poy would take a question.

**The Hon. the Speaker pro tempore:** Will you accept a question, Senator Poy?

**Senator Poy:** Yes.

**Senator Cools:** Essentially, I am hearing Senator Poy say that in the interests of cost effectiveness, the Senate should reinstate bills as the House of Commons does. I could submit that the greatest saving of cost would be to never have any debate on anything, but just to pass it all once in the House of Commons and never even bring it to the Senate. Cost effectiveness is a peculiar argument.



I should like to ask Senator Poy about the constitutional underpinnings of what she is proposing. Senator Poy happens to be the sister-in-law of the Governor General. Her Excellency Adrienne Clarkson would have issued, under the Royal Prerogative, a proclamation and writ of prorogation and writ of summoning of Parliament. I wonder if Senator Poy has wrapped her mind around the constitutional task of defeating and overcoming an order of prorogation, which is what a reinstatement essentially does.

• (1700)

**Senator Poy:** Honourable senators, all I am suggesting is that this matter should be studied. Cost-effectiveness is only one issue. I am talking about efficiency, and about the fact that what we do in this chamber is just as valuable as what happens in the other place. This is a matter of study. It depends on the findings of the committee. All I am saying is that this matter should be studied. I am not suggesting changing anything in the Constitution.

**Senator Cools:** I listened attentively to the honourable senator. When one makes a proposal, one usually brings forth the legal and constitutional underpinnings to the proposal. Has Senator Poy given any thought to those? Basically, Senator Poy is saying that she has not, and that this is just a suggestion. I take it for exactly what she says.

Does the honourable senator wish to respond to that?

**Senator Poy:** Honourable senators, I will respond. This is a suggestion. What I am saying is that the matter should be studied. That is it. There is no change of anything. If the committee should decide, after having studied the matter, that this is not workable for the Senate, that is the way it should be. However, the matter should be studied. We should not have closed minds.

**Senator Cools:** I agree with the honourable senator. Senator Poy has opened my mind to the matter. I should like to speak on the matter.

On motion of Senator Cools, debate adjourned.

## UNITED STATES MISSILE DEFENCE SYSTEM

### MOTION RECOMMENDING NON-PARTICIPATION—DEBATE ADJOURNED

**Hon. Douglas Roche,** pursuant to notice of February 26, 2004, moved:

That the Senate of Canada recommend that the Government of Canada not participate in the U.S.-sponsored Ballistic Missile Defence (BMD) system because:

1. It will undermine Canada's longstanding policy on the non-weaponization of space by giving implicit, if not explicit, support to U.S. policies to develop and deploy weapons in space;

2. It will destabilize the strategic environment and impede implementation of Article VI of the Nuclear Non-Proliferation Treaty;

3. It will not contribute to the security of Canadians, and Canadian non-participation will not diminish the importance of Canada-U.S. defence cooperation under NORAD in addressing genuine threats to Canadian security.

He said: Honourable senators, the debate I am starting with this motion on Canada's possible participation in the U.S. ballistic missile defence system, known as BMD, deals with a matter of critical importance to Canada's role in building global security and the conditions for peace. I would have preferred that the debate in the Senate be launched by the government because it is the government, after all, that has the responsibility for Canada's security.

I urge the government to recognize that Canada's participation in BMD will undermine, if not destroy, Canada's policies on arms control and disarmament and the non-weaponization of space.

There are three principal reasons that I oppose participation in BMD. First, participation in BMD will constitute Canadian endorsement for the weaponization of space. The government has denied this, arguing that the system the U.S. will begin deploying later this year involves only ground- and sea-based missile interceptors. This is wrong. It involves much more. Ballistic missile defence is like a house. Ground- and sea-based interceptors are the first and second storeys. Space-based missile interceptors are the roof.

The U.S. Missile Defence Agency, charged with developing missile defence, is perfectly clear on this point. BMD will be an integrated system. The system is to involve a layered defence, capable of intercepting missiles in boost phase shortly after launch, in mid-course in space, and in terminal phase as they near the target. As a recent study by the American Physical Society pointed out, a land-based missile defence system will be incapable of intercepting missiles in boost phase launched from distant states. To account for this deficiency, the U.S. will have to deploy weapons in space.

It should come as no surprise, then, that the Missile Defence Agency has requested funding for research in 2005 aimed at developing space-based weapons, with the stated intention of deploying a test bed in space in 2012. The deployment of such a test facility will smash the long cherished and widely held norm against weapons in space. Canadian involvement in the current missile defence program, which may include space research as early as next year, will be an endorsement of activities that directly counter Canada's policy on space weapons.

The government is not ignorant of U.S. intentions for missile defence. An internal report done by our Department of National Defence notes that a —

...significant risk associated with BMD...is its reinforcement of trends towards the weaponization of outer space.

[ Senator Cools ]

Despite these concerns, the government has not developed any contingency plans to guide Canadian policy once the United States consummates its desire to place weapons in space. Canadian officials argue that we can better influence U.S. policy if we are inside the missile defence tent. However, if we cannot extract an American guarantee not to weaponize space before agreeing to participate, how will we be able to obtain such a guarantee afterwards?

The letter from Defence Minister Pratt to U.S. Defence Secretary Donald Rumsfeld explicitly recognizes that ballistic missile defence, and Canada's participation in it, will not remain limited to the system being deployed in 2004. Instead, Minister Pratt states that the BMD system:

...will evolve over time, and our bilateral cooperation in this area should also evolve.

Thus, honourable senators, there will be no escaping the fact that participation in missile defence constitutes an endorsement of U.S. intentions to weaponize space. Second, BMD will destabilize the strategic environment and impede implementation of Article VI of the Nuclear Non-Proliferation Treaty, which calls for negotiations to eliminate all nuclear weapons. While some argue that a shield to defend against missile attacks is a purely defensive measure, this ignores the predictable reactions of other states to the deployment of this shield. BMD is intended only to protect against accidental launches from other nuclear powers such as Russia and China, or missile attacks from U.S. adversaries with limited nuclear capability. To preserve a nuclear deterrent vis-à-vis the United States, these states will have to maintain an arsenal capable of defeating BMD.

• (1710)

Indeed, for China and Russia, this means either overwhelming missile defences by having more missiles than BMD has interceptors, or developing missiles capable of evading the interceptors altogether. Russian research on BMD countermeasures resulted in a successful test of a new missile just last month, leading a senior Russian military official to declare:

We have proven that it's possible to develop weapons that would make any missile defence useless.

For its part, China is expanding its current arsenal of approximately 20 missiles capable of hitting the U.S. to 30 by 2005, and possibly 60 by 2010.

We see, then, that BMD will encourage Russia and China to put their nuclear weapons on high alert, increasing the likelihood of an accidental launch of the kind BMD is intended to protect against. Increased Chinese deployments could also force India to upgrade its own nuclear capability.

What does all of this mean? Instead of decreasing nuclear arsenals and making progress toward the comprehensive elimination of nuclear weapons, as called for under Article VI of the Nuclear Non-Proliferation Treaty, states uncomfortable

with U.S. dominance of nuclear war-fighting are forced to maintain or increase current arsenals and focus research on developing countermeasures to BMD.

This has led the noted American defence analyst, Dr. Bruce Blair, of the Center for Defense Information in Washington, to declare:

...every [BMD interceptor] missile in the ground will be another nail in the coffin of nuclear disarmament.

Even the Canadian Department of Defence has recognized this problem, noting that "BMD could also increase the risk of further proliferation of missile technologies and weapons of mass destruction."

Such an effect runs directly counter to the disarmament and non-proliferation agenda that Canada has traditionally supported. Just as with the weaponization of space, Canada faces a clear choice with respect to disarmament: either participate in BMD and accept current or higher global levels of nuclear weapons, or distance itself from the U.S. missile defence programs and continue to work internationally to decrease nuclear arsenals.

Honourable senators, my third point is this: BMD will not contribute to the security of Canadians, and Canadian non-participation will not undermine Canada-U.S. defence cooperation under NORAD in addressing other threats to continental security. This is extremely important, since the government has said it will base its decision on BMD primarily on whether it will protect Canadians. As has already been noted, BMD makes accidental missile launches more likely. Does it afford any protection against missiles once they are in the air?

The simple answer is, "No, it does not." While much is made of the upcoming deployment of BMD, the system has not yet been shown to actually work. The U.S. Congress General Accounting Office examined the 10 key technologies on which the effectiveness of BMD depends, and concluded last year that prototypes have been successfully tested for only two of these, and no tests of the system as a whole have yet even been made possible.

While offering no protection to North America from ballistic missile attacks, the very deployment of the system has the effect of increasing the likelihood of an attack in the first place. It is not difficult to see that this means less security for Canadians, not more.

Another argument advanced for participation in BMD is that if Canada does not have a seat at the table, the U.S. will either eliminate or marginalize the role of NORAD in continental defence cooperation, opting instead to defend North America without Canadian input. However, Canada already has a seat at dozens of defence-related tables, including the newly created binational planning group, at which we can advance our views about BMD. Such an argument also ignores the reason that the United States cooperates with Canada in defence in the first place: Simply put, it is in the U.S. interest to do so. The fact that we share a common border and maritime approaches means that neither the U.S. nor Canada can effectively provide for its own defence without cooperation from the other.



The United States recognizes the importance of defence cooperation with Canada. Far from marginalizing NORAD, the Pentagon has suggested expanding cooperation to encompass coordination on land and sea in addition to the air defences currently serviced by NORAD.

NORAD is not a function of American charity. It is, instead, a rational response to the ongoing needs of Canada and the U.S. to coordinate continental defence, and will continue to be in the interests of both countries irrespective of the position Canada takes on missile defence.

Honourable senators, I thank you for your attention and conclude with this observation. I ask you to consider that I am not standing alone in my opposition to BMD. Important voices and votes show the rising concern that Canada not make a terrible mistake. Thirty Liberal MPs in the House of Commons voted against Canada continuing discussions on, let alone participating in, missile defence.

A round table of prominent figures who met recently in Ottawa urged Canada to stay out of BMD. A new Canada-wide coalition of concerned Canadians is being formed. Several important and highly respected bodies, such as the Liu Institute for Global Issues, Project Ploughshares, the Canadian Pugwash Group and the Middle Powers Initiative have all called for Canada to work for nuclear disarmament, instead of undermining it by participating in BMD.

Washington's ardour for an unworkable defence in pursuit of a delusionary Fortress North America may well wane after the 2004 presidential election as costs climb and technology falters. Indeed, the rush to deploy an untested system has also led prospective

presidential nominee John Kerry to oppose the early deployment of BMD undertaken by President Bush.

Honourable senators, let Canada stay with global values for peace and work for a world in which everyone can find security.

On motion of Senator Cordy, debate adjourned.

## **RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT**

### **COMMITTEE AUTHORIZED TO RECEIVE PAPERS AND EVIDENCE**

**Hon. Lorna Milne**, pursuant to notice of February 26, 2004, moved:

That all papers and evidence received and taken by the Standing Committee on Rules, Procedures and the Rights of Parliament during the Second Session of the Thirty-seventh Parliament, on Bill C-34, be referred to the said Committee.

**The Hon. the Speaker *pro tempore***: Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators**: Agreed.

Motion agreed to.

The Senate adjourned until Wednesday, March 10, 2004 at 1:30 p.m.

**APPENDIX**

**Address**

**of**

**His Excellency Kofi Annan**

**Secretary-General of the United Nations**

**to**

**both Houses of Parliament**

**in the**

**House of Commons Chamber, Ottawa**

**on**

**Tuesday, March 9, 2004**



## APPENDIX

Address  
of  
His Excellency Kofi Annan  
Secretary-General of the United Nations  
to  
both Houses of Parliament  
in the  
House of Commons Chamber, Ottawa  
on  
Tuesday, March 9, 2004

*His Excellency Kofi Annan and Ms. Annan were welcomed by the Right Honourable Paul Martin, Prime Minister of Canada, by the Honourable Dan Hays, Speaker of the Senate, and by the Honourable Peter Milliken, Speaker of the House of Commons.*

• (1005)

[English]

**Right Hon. Paul Martin (Prime Minister, Lib.):** Mr. Speaker of the Senate, Mr. Speaker of the House, members of Parliament, Senators, ladies and gentlemen, it is a great privilege to welcome to Parliament the Secretary-General of the United Nations, Mr. Kofi Annan.

Your Excellency, Canada may be a young country, but we have one of the oldest continuing systems of government in the world and throughout our history we have been staunchly democratic.

This magnificent chamber, this House of Commons, is the engine room of our democracy, and sometimes, Sir, let me tell you, it can get pretty noisy in here. Thus, while I would like to believe that the rare calm you see before you reflects the enormous support on both sides of the House for the policies of the government, I suspect that it is primarily a tribute to you and to the great institution you lead.

Canadians were among the first and continue to be among the world's most steadfast supporters of the United Nations. It should be no surprise, therefore, that many have become integral to the United Nations endeavour.

What I would like to do now is introduce six such Canadians who are with us today: Lieutenant-General Roméo Dallaire, a compassionate and articulate advocate of the world community's responsibility to protect; Major-General Andrew Leslie, recently returned from Afghanistan, where he was deputy commander of the International Assistance Force; Stephen Lewis, the Secretary-General's Special Envoy on HIV-AIDS in Africa; Maurice Strong, Undersecretary-General and Special Advisor to the Secretary-General for North Korea, and a man who has done so much to make the environment a global responsibility; Louise Fréchette, for many years a distinguished Canadian public servant and now the Deputy Secretary-General of the United Nations; and finally, Louise Arbour, Supreme Court Justice of Canada, chief prosecutor for the International Criminal Tribunals in the Hague, and the next United Nations High Commissioner for Human Rights.

• (1010)

[Translation]

Your Excellency, Canada is an international player. Our security, our prosperity, our environment are intimately connected with developments beyond our borders. No country is more open to the world than Canada, and no country has a greater stake in making sure that our international institutions work fairly and effectively. It is vital for Canada — it is a fundamental Canadian self-interest — that the international community be guided and bound by the rule of law. But our commitment to internationalism goes beyond self-interest narrowly conceived. It is also a matter of the heart, of a belief in the dignity of all people, and the need for equitable solutions to global problems.

[English]

Multilateral commitment, for us, is more than a simple wish; it is a recognition that Canada's destiny as a free nation demands international fairness, integrity, courage and imagination.

These are the qualities the world needs if we are to meet the challenges of today and tomorrow and they are also the qualities that come most readily to mind when we think of the life and the career of our honoured guest.

In the year 2001, the Nobel Peace Prize was awarded to the United Nations and its Secretary-General. Justifiably so, because Kofi Annan exemplifies in his person the highest aspirations that we all hold for the community of nations.

At critical moments in its history, the United Nations has made it through difficult times because it was led by a great Secretary-General and there is no doubt that this is the case today. Unequivocally, Kofi Annan has earned his place among the great leaders of the UN.

These are not easy times: the threat of terrorism; the growing gap between the world's rich and the world's poor; the need to protect our global commons against the ravages of pollution and senseless exploitation; and the responsibility to protect. These are the challenges we face and they all require nations to shoulder their global responsibilities and to work together.

At the centre of it all lies the United Nations. If it does not work, then more and more people will be left behind. Our problems will deepen and durable solutions will become more and more remote.

• (1015)

[Translation]

We live in one world, and all our destinies are linked. Kofi Annan, by word and deed, has devoted his entire working life to keeping this fundamental truth before our eyes. He has dealt with the most critical issues of our times, from wars in the Gulf and the Balkans, to the status of East Timor, to peace efforts in the Middle East.

Your Excellency, Canada agrees with you that there is a collective responsibility to protect people from the worst threats to their security, and protect the innocent from military catastrophes.

[English]

Kofi Annan has been an inspiration in the struggle to end global tragedy.

For instance, his leadership has been essential in the establishment of the Global Fund for AIDS and in the campaign to provide cheap medicines to sufferers in poor countries.

Canada has listened. We are the first OECD country to introduce legislation to provide inexpensive generic drugs to the poorest of the poor with HIV-AIDS.

I can think of no better way to commemorate the visit of the Secretary-General and Mrs. Annan to this Parliament than for hon. members and senators from all parties to join together and to pass this legislation quickly, for the time to act is now.

In these and so many other areas, such as the millennium development goals signed by 147 world leaders in September 2000, Kofi Annan reminds us that the great issues of war and peace cannot be separated from the great causes of human rights and individual freedom.

The Secretary-General displays a calm and a forcefulness in the midst of the whirlwind that is truly astonishing. He not only tackles global crisis with great resolve and creativity, he is forthright in his calls for changes to the United Nations itself.

The great institution is not broken, but it is hurting. Many of the problems we face cannot be easily addressed by a model established over 50 years ago to deal with very different kinds of issues.

For this reason, the Secretary-General has established a high level panel on threats, challenges and change to advise him on ways to ensure that the United Nations is up to the tasks it faces.

He can be confident that Canada will stand with him to ensure that his reform efforts move forward and take hold, for we can do no less.

[Translation]

It is far too easy to criticize the United Nations, as if it were some remote and abstract entity. It is not. The United Nations is us. Its shareholders are the 191 states that make up its membership, and it is we who are accountable for its failures as well as its successes.

Canada has done its fair share and more throughout the years, whether through our continuing work on human rights or on peacekeeping, and in so many other areas of international importance. Wherever there is pain and suffering in the world, we can find Canadians from every walk of life helping to make things better.

Afghanistan and Haiti are but two of the more recent examples where the men and women of our armed forces are serving the cause of democracy with courage and compassion.

[English]

Your Excellency, this House divides on many issues, and that is a testament to our democratic spirit. But I can assure you that everyone here is united in our admiration for the work you are doing.

We all share the profound Canadian commitment to the cause of multilateralism and to the continuing health and vitality of the United Nations.

Mr. Speaker and Mr. Speaker of the Senate, may I present the Secretary-General of the United Nations, His Excellency Kofi Annan.

*Applause*

• (1020)

[English]

**His Excellency Kofi Annan (Secretary-General of the United Nations):** Mr. Prime Minister, Speakers of both the Senate and House, hon. members of the Senate, hon. members of the House of Commons, Excellencies, ladies and gentlemen, thank you very much for giving me such a warm welcome.

I am very pleased to be here in Ottawa and I thank you, Mr. Prime Minister, most warmly for giving me the opportunity to be here and to have the chance to address both Houses this morning. I am particularly pleased to see so many young people in the room behind me. It is great to see them here. It is wonderful that they are becoming engaged early in their lives. They are the leaders of the 21st century and the sooner they become engaged, begin to assume responsibility and to learn from you, the better it will be for all of us.

[Translation]

As you know, the United Nations' Charter opens with the phrase "We the Peoples of the United Nations".

Since becoming Secretary-General in 1997, I have made a determined effort to bring the United Nations closer to "the peoples". I have also tried to have the voice of the peoples heard more directly at the United Nations. This is why I am particularly glad to be here with you, the representatives through whom the people of Canada make their voice heard.

It is often said that "all politics is local". Yet in our globalized age, local events are connected, in a myriad of ways, with situations far afield.

We need but glance at the headlines over recent weeks — about new diseases and climate change, for instance — to grasp the important link between the global and the local.



As citizens of an outward-looking country, you in Canada are keenly aware of this, and in many ways you have been able to make the best of globalization, while working to minimize its negative effects, for Canada and for the world.

Throughout the years, Canada has been a pillar of support for the United Nations. Indeed it's hard to imagine the United Nations without Canada and, I might even say, it has become hard to imagine Canada without the United Nations.

Your country's multicultural character and bilingual tradition give it special qualifications as an exemplary member of our Organization. Canada played a key role in the drafting of the UN Charter. You have contributed to practically every aspect of our work, whether in peacekeeping or in the promotion of the UN's development agenda. You have pioneered important disarmament and humanitarian efforts. The very name of this city has become synonymous with the treaty to ban anti-personnel landmines.

And I am delighted to hear that Toronto may soon house a University for Peace Centre, which I hope, working with other Canadian institutions, will enable Canada to make an even greater contribution to UN conflict prevention and peace-building.

Canadians have been prominently involved in the United Nations since its early days. John Humphrey was one of the principal drafters of the Universal Declaration on Human Rights.

In 1955, Paul Martin Senior, the father of your present Prime Minister, helped overcome political and procedural obstacles to the rapid expansion of UN membership — paving the way for the near universality which is today one of our Organization's most important assets.

Lester Pearson even received the Nobel Peace Prize for his efforts to resolve the Suez Crisis — a process in which he helped to invent the very concept of peacekeeping.

• (1025)

It is because I have seen what Canada can bring to the work of the United Nations that I was heartened by the words of Her Excellency the Governor General during the opening session of this Parliament last month, when she expressed the desire for Canada to have a role of pride and influence in the world — to bring Canadian values to international affairs and to “create a world where fairness, justice and decency reign”.

When hearing those words, my reaction is, as so often when I think about Canada, “We can work together”.

[English]

In today's world, we are plagued not only with longstanding problems but also with newer ones, newer ones that have come on top of the international agenda. Terrorism has become a central concern of this new millennium and is, today, a major threat to international peace and security.

[ Kofi Annan ]

Many states are concerned about the proliferation of weapons of mass destruction and their possible acquisition by terrorist groups. Every day, it seems, brings news showing the limitations of our current collective system designed to curb proliferation and trafficking in fissile materials. None of us is omniscient when it comes to ascertaining the presence or absence of weapons of mass destruction in other states.

The last decade of the 20th century taught us lessons about the changing nature of armed conflict. Securing the peace was once seen as simply a matter of preventing war between states. Since the end of the cold war, we have witnessed primarily conflict within states. In the process, we have been repeatedly faced with grievous and massive violations of human rights and of international humanitarian law. Our instinctive reaction is that something must be done, but we are not always sure what or how, or by whom.

As we embark into the 21st century, our organization faces a very different world from the one envisaged by its founders. All of us face new problems and we need to find new solutions. My starting point, as you would expect of a secretary-general of the United Nations, is multilateralist. From that perspective, we are not doing very well. We have yet to find collective answers to the new so-called hard threats to international peace and security that I mentioned a moment ago.

We are also collectively failing to provide adequate responses to persistent hunger, disease, massive violations of human rights and the degradation of the environment. These threats disrupt, disfigure, destroy the lives of many millions of our fellow human beings. The response to these problems cannot be viewed in isolation from our broader concept of security. A world in which millions live in misery without prospects for development cannot be regarded as a world at peace.

Ladies and gentlemen, three and a half years ago at the Millennium Summit, as we heard earlier from the Prime Minister, the world's leaders adopted the Millennium Declaration, a joint statement of our ambition for humanity in the new century. For the first time there was genuine consensus that poverty, hunger, unequal access to primary education, lack of safe drinking water, diseases like HIV-AIDS and malaria, as well as environmental degradation are problems that concern the whole world.

For the first time in history a specific date, the year 2015, was set as our target to achieve specific goals in development and poverty reduction. Sadly, stark and terrible events over the past three years, including on this continent, have distracted our collective attention from these aspirations.

Next year we will review our progress toward achieving the millennium development goals. We will all have to take an honest, hard and unflinching look at where we stand and what we have achieved and what we have not and why.

• (1030)

Our first task should be to restore the world's focus on development. We must do so by taking decisive action to ensure that the achievement of the key goals that we have set for ourselves are met.

The millennium development goals place a great responsibility on the developing countries to mobilize domestic resources, implement policy reform, strengthen democratic governance and protect human rights. But none of the millennium development goals will be achieved without a truly global partnership for development in which countries like Canada will have to do their fair share.

It was under Canadian leadership that two years ago the G-8 adopted in Kananaskis the Africa action plan in support of the New Partnership for Africa's Development. Therefore, Africans are looking to Canada to ensure that this commitment is fully implemented.

Reaching the millennium development goals will require a true global partnership in which all developed countries play their parts through increased and more effective official development aid, investment, advice, and policies that ensure a just global trading system. The recent report of the Commission on Private Sector and Development has shown how critical the role of the private sector can be in this effort. Prime Minister Martin did a splendid job as co-chair of that commission.

I hope that Canada will remain engaged and propose concrete measures to implement their report, along with other countries, but we must make certain that poor countries have a chance at development and that they can benefit from globalization. We must put Doha back on track, a task in which Canada's leadership will be crucial.

Developing countries must not face unfair competition and their most competitive exports especially should be free of restrictive barriers. Developing countries should be given the chance to trade away their poverty, and we must have new approaches to relieve poor countries of heavy debt burdens that drain resources from their development.

To safeguard our environment and preserve a viable world for future generations, we must ensure that our development is sustainable. I salute Canada's determination to reduce greenhouse gases and to comply with international commitments under the Kyoto protocol.

Perhaps most urgently of all, we must redouble our response to the monumental crisis of HIV-AIDS. This has become not only a dangerous obstacle to development, but also a threat to global security. Canada's assistance and proposed legislation to provide low cost generic HIV-AIDS medication to African countries are welcome steps in the right direction, but even greater efforts are needed if we are indeed to begin to reverse the spread of the disease by 2015 as we have pledged to do.

Indeed, none of the millennium development goals will be achieved with a business as usual approach. Our pace of progress must be accelerated.

• (1035)

In all these areas, I urge Canadians to aim higher. Yours must be a leading role in a renewed global effort to deliver what the world has promised to its neediest citizens.

I would also like to make a special plea for the long term commitment to help the people of Haiti. The experience of Haiti shows how poverty, instability and violence feed on each other with repercussions for the broader region.

The international community is now preparing for a new effort to help Haiti. Security as well as humanitarian and development assistance will be needed. At the same time the international community will need to make a decisive contribution to buttress Haiti's democratic institutions.

Only through a long term commitment to help the country can stability and prosperity be assured. Half-hearted efforts of the past have been insufficient. We cannot afford to fail this time.

Ladies and gentlemen, the past year was a particularly difficult one for the United Nations and for me personally. We suffered some bitter blows, including the devastating attack on our staff in Baghdad and the loss of some of our most treasured friends and colleagues.

The persistent instability in Iraq and its regional repercussions are a matter of profound concern to all of us. Now we are confronted with the challenge of helping Iraqis recover their sovereignty under a fully represented government.

The debate over the use of force in Iraq has brought into sharp relief the urgent need for a system of collective security that inspires genuine confidence so that no state feels obliged to resort to unilateral action.

That is why in November last year I appointed a high level panel charged with producing a rigorous assessment of the threats affecting us today and in the foreseeable future.

It is my hope that it will help us move away from the stereotypes, such as the notion that terrorism and weapons of mass destruction are concerns of the north, while poverty and hunger only affects people in the south. I would also hope that the panel will produce recommendations intended to make the United Nations as effective an instrument for collective action as possible against the threats we face, threats both old and new.

The panel is rightly canvassing the views of governments and civil society throughout the world, and I am sure Canada will make an important contribution to its work. What we need is a new global consensus. For this the active and committed involvement of the organization's membership will be vital. I want to see all the member states engaged in this stage.

The decisions needed to make the organization more effective will require a high degree of political will among member states, the will to achieve necessary change but also to make it possible by compromise.

Here too, Canada, with its long tradition of bridge building among different international constituencies can play an important role. Already, Canada has shown leadership in promoting valuable new ideas on ways to strengthen peaceful global governance and to strengthen global governance.



• (1040)

Canadian initiatives, such as the responsibility to protect, developed by the International Commission on Intervention and State Sovereignty, have changed the way we think about some of these important issues that we face intermittently.

I applaud Canada's focus on the rights and the dignity of the individual — an approach that has helped alter the terms of the debate on intervention and sovereignty in a creative and promising way. The individual is the basis on which every free democratic society is built.

As a result, we increasingly conceive of sovereignty as involving the responsibility of states, in the first instance, to protect their own populations. When that protection is lacking or the government concerned is unable or unwilling to do it, all of us in the international community share the responsibility to protect our fellow human beings from massive and systematic violations of human rights wherever and whenever they occur.

In this context, the approaching 10 year anniversary of the genocide in Rwanda must give us pause and compel us to reflect on how to avoid similar atrocities in the future. We can no longer afford gaps in the existing capacity to provide early warnings of genocide or comparable crimes.

I have proposed the establishment of a special rapporteur or advisor on the prevention of genocide to make clear the link, which is often ignored until it is too late, between massive and systematic violations of human rights and threats to international peace and security.

More broadly, I look forward to the day when the concept of our shared responsibility to protect encompasses the sense of global obligation to reach out and help our fellow human beings wherever they may be and when they are most in need.

• (1045)

[Translation]

Ladies and Gentlemen, Prime Minister Martin has called on Canada to pursue "a new politics of achievement", and to "ensure a place of influence and pride for Canada in the world". I subscribe to that plea and I challenge you to renew, with even greater determination, your great tradition of international engagement.

I look forward to working with you. Thank you very much.

*Applause*

• (1045)

**Hon. Dan Hays (Speaker of the Senate):** Mr. Speaker, Mr. Secretary General, it is both an honour and a pleasure for me to join with the Speaker of the House of Commons, Mr. Milliken, with the Prime Minister, and all my colleagues to welcome you to the Parliament of Canada and thank you for your very stimulating words.

[ Kofi Annan ]

[English]

In the Charter and the Universal Declaration of Human Rights, the member states of the United Nations have collectively defined the moral standards against which the actions not only of governments, but increasingly of individuals and even corporations are measured. Today, these standards are widely seen as the foundation of an international system of norms.

As you know, Canadians share with you a profound commitment to a rules based multilateral system, which reflects the values and priorities of the world's citizens, and in which their voices are heard.

• (1050)

[Translation]

Under your governance, the United Nations has taken giant steps toward this goal. Civil society and the world of business are now engaged in the global dialogue about such issues as the funding of development and the governance of corporations. The UN now works more closely with other international bodies and parliamentarians are more involved than ever.

The result is that the United Nations is becoming the centre of an ever-growing network of governments of the world. But there remains much to accomplish.

[English]

If we are to overcome the challenges facing humanity, your organization, which is our organization, must not only play a central role in helping its member states to find solutions, it will have to be a central part of those solutions.

[Translation]

Canadians have a deep attachment to the United Nations. In fact, popular support for the UN is on the rise in Canada.

For parliamentarians, our role is to translate this attachment into action. Many of my colleagues in the Senate and the House do their share in this regard by taking part in such organizations as the Inter-Parliamentary Union, by assisting with the abolition of land mines in Sudan and Sierra Leone, by helping to create the International Criminal Court, and by promoting nuclear disarmament.

[English]

In an address to the Inter Parliamentary Union in 1999, you told parliamentarians from around the world "You are the institutional bridge between the state and civil society. You are the link between local and global".

We accept that responsibility. We will continue to do our part in helping the United Nations, whether it be in Haiti or elsewhere, to achieve the ambitious goals that member states have set for themselves under your leadership and that of your predecessors.

Thank you Mr. Secretary-General.

*Applause*

• (1050)

[Translation]

**Hon. Peter Milliken (Speaker of the House of Commons:** Mr. Speaker, Mr. Annan, it is a great honour and privilege for me, on behalf of my colleagues, the Members of the House of Commons, Senators, and special guests present here today, to thank you for your visit, and to thank your wife as well; this visit is greatly appreciated by all my fellow citizens.

It is an opportunity for us, as Canadians, to reflect on the work we have been a part of and the contribution we have made to the United Nations in recent years, as we will continue to do in the future, as you have said.

[English]

I want to say how pleased we are that you have found in the presence of Mme. Louise Arbour someone who will be of great assistance in being the United Nations Commissioner for Human Rights, and we are delighted. She is the latest of a number of

distinguished Canadians mentioned earlier who have participated in some significant events at the United Nations. I know that, in the future, Canadians will continue to do that.

Your presence helps underline that fact, but also encourages others to do exactly what some of our more senior people have done in the past. The Prime Minister could go on about that a bit should he choose to in respect to his father's participation. We thank you very much for being here and making that possible.

We also wish you the very best in your continued work for the United Nations. Thank you for everything you have done to make the organization so effective in the last number of years.

[Translation]

We thank you very much for being here and we wish you good luck!

*Applause*





## **APPENDIX**

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

Committees of the Senate



**THE SPEAKER**

The Honourable Daniel P. Hays

**THE LEADER OF THE GOVERNMENT**

The Honourable Jack Austin, P.C.

**THE LEADER OF THE OPPOSITION**

The Honourable John Lynch-Staunton

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**OFFICERS OF THE SENATE****CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS**

Paul Bélisle

**DEPUTY CLERK, PRINCIPAL CLERK, LEGISLATIVE SERVICES**

Gary O'Brien

**LAW CLERK AND PARLIAMENTARY COUNSEL**

Mark Audcent

**USHER OF THE BLACK ROD**

Terrance J. Christopher

## THE MINISTRY

According to Precedence

(March 9, 2004)

The Right Hon. Paul Martin	Prime Minister
The Hon. Jacob Austin	Leader of the Government in the Senate
The Hon. David Anderson	Minister of the Environment
The Hon. Ralph E. Goodale	Minister of Finance
The Hon. Anne McLellan	Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness
The Hon. Lucienne Robillard	Minister of Industry and Minister responsible for the Economic Development Agency of Canada for the Regions of Quebec
The Hon. Pierre S. Pettigrew	Minister of Health, Minister of Intergovernmental Affairs and Minister responsible for Official Languages
The Hon. James Scott Peterson	Minister of International Trade
The Hon. Andrew Mitchell	Minister of Indian Affairs and Northern Development
The Hon. Claudette Bradshaw	Minister of Labour and Minister responsible for Homelessness
The Hon. Denis Coderre	President of the Queen's Privy Council for Canada, Federal Interlocutor for Métis and Non-Status Indians, Minister responsible for La Francophonie, and Minister responsible for the Office of Indian Residential Schools Resolution
The Hon. Rey D. Pagtakhan	Minister of Western Economic Diversification
The Hon. John McCallum	Minister of Veterans Affairs
The Hon. Stephen Owen	Minister of Public Works and Government Services
The Hon. William Graham	Minister of Foreign Affairs
The Hon. Stan Kazmierczak Keyes	Minister of National Revenue and Minister of State (Sport)
The Hon. Robert Speller	Minister of Agriculture and Agri-Food
The Hon. Giuseppe (Joseph) Volpe	Minister of Human Resources and Skills Development
The Hon. Reginald B. Alcock	President of the Treasury Board and Minister responsible for the Canadian Wheat Board
The Hon. Geoff Regan	Minister of Fisheries and Oceans
The Hon. Tony Valeri	Minister of Transport
The Hon. David Pratt	Minister of National Defence
The Hon. Jacques Saada	Leader of the Government in the House of Commons and Minister responsible for Democratic Reform
The Hon. Irwin Cotler	Minister of Justice and Attorney General
The Hon. Judy Sgro	Minister of Citizenship and Immigration
The Hon. Hélène Chalifour Scherrer	Minister of Canadian Heritage
The Hon. Ruben John Efford	Minister of Natural Resources
The Hon. Liza Frulla	Minister of Social Development
The Hon. Ethel Blondin-Andrew	Minister of State (Children and Youth)
The Hon. Andy Scott	Minister of State (Infrastructure)
The Hon. Gar Knutson	Minister of State (New and Emerging Markets)
The Hon. Denis Paradis	Minister of State (Financial Institutions)
The Hon. Jean Augustine	Minister of State (Multiculturalism and Status of Women)
The Hon. Joseph Robert Comuzzi	Minister of State (Federal Economic Development Initiative for Northern Ontario)
The Hon. Albina Guarnieri	Associate Minister of National Defence and Minister of State (Civil Preparedness)
The Hon. Joseph McGuire	Minister of Atlantic Canada Opportunities Agency
The Hon. Mauril Bélanger	Deputy Leader of the Government in the House of Commons
The Hon. Carolyn Bennett	Minister of State (Public Health)
The Hon. Aileen Carroll	Minister for International Cooperation



## SENATORS OF CANADA

## ACCORDING TO SENIORITY

(March 9, 2004)

Senator	Designation	Post Office Address
THE HONOURABLE		
Herbert O. Sparrow	Saskatchewan	North Battleford, Sask.
Edward M. Lawson	Vancouver	Vancouver, B.C.
Bernard Alasdair Graham, P.C.	The Highlands	Sydney, N.S.
Jack Austin, P.C.	Vancouver South	Vancouver, B.C.
Willie Adams	Nunavut	Rankin Inlet, Nunavut
Lowell Murray, P.C.	Pakenham	Ottawa, Ont.
C. William Doody	Harbour Main-Bell Island	St. John's, Nfld. & Lab.
Peter Alan Stollery	Bloor and Yonge	Toronto, Ont.
Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa, Ont.
Michael Kirby	South Shore	Halifax, N.S.
Jerahmiel S. Grafstein	Metro Toronto	Toronto, Ont.
Anne C. Cools	Toronto-Centre-York	Toronto, Ont.
Charlie Watt	Inkerman	Kuujuuaq, Que.
Daniel Phillip Hays, <i>Speaker</i>	Calgary	Calgary, Alta.
Joyce Fairbairn, P.C.	Lethbridge	Lethbridge, Alta.
Colin Kenny	Rideau	Ottawa, Ont.
Pierre De Bané, P.C.	De la Vallière	Montreal, Que.
Eymard Georges Corbin	Grand-Sault	Grand-Sault, N.B.
Brenda Mary Robertson	Riverview	Shediac, N.B.
Norman K. Atkins	Markham	Toronto, Ont.
Ethel Cochrane	Newfoundland and Labrador	Port-au-Port, Nfld. & Lab.
Eileen Rossiter	Prince Edward Island	Charlottetown, P.E.I.
Mira Spivak	Manitoba	Winnipeg, Man.
Roch Bolduc	Gulf	Sainte-Foy, Que.
Gérald-A. Beaudoin	Rigaud	Hull, Que.
Pat Carney, P.C.	British Columbia	Vancouver, B.C.
Gerald J. Comeau	Nova Scotia	Church Point, N.S.
Consiglio Di Nino	Ontario	Downsview, Ont.
Donald H. Oliver	Nova Scotia	Halifax, N.S.
Noël A. Kinsella	Fredericton-York-Sunbury	Fredericton, N.B.
John Buchanan, P.C.	Nova Scotia	Halifax, N.S.
John Lynch-Staunton	Grandville	Georgeville, Que.
James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie, Ont.
J. Trevor Eytton	Ontario	Caledon, Ont.
Wilbert Joseph Keon	Ottawa	Ottawa, Ont.
Michael Arthur Meighen	St. Marys	Toronto, Ont.
J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth, N.S.
Janis G. Johnson	Winnipeg-Interlake	Gimli, Man.
A. Raynell Andreychuk	Regina	Regina, Sask.
Jean-Claude Rivest	Stadacona	Quebec, Que.
Terrance R. Stratton	Red River	St. Norbert, Man.
Marcel Prud'homme, P.C.	La Salle	Montreal, Que.
Leonard J. Gustafson	Saskatchewan	Macoun, Sask.
David Tkachuk	Saskatchewan	Saskatoon, Sask.
W. David Angus	Alma	Montreal, Que.
Pierre Claude Nolin	De Salaberry	Quebec, Que.
Marjory LeBreton	Ontario	Manotick, Ont.

Senator	Designation	Post Office Address
Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Lise Bacon	De la Durantaye	Laval, Que.
Sharon Carstairs, P.C.	Manitoba	Victoria Beach, Man.
Landon Pearson	Ontario	Ottawa, Ont.
Jean-Robert Gauthier	Ottawa-Vanier	Ottawa, Ont.
John G. Bryden	New Brunswick	Bayfield, N.B.
Rose-Marie Losier-Cool	Tracadie	Bathurst, N.B.
Céline Hervieux-Payette, P.C.	Bedford	Montreal, Que.
William H. Rompkey, P.C.	Labrador	North West River, Labrador, Nfld. & Lab.
Lorna Milne	Peel County	Brampton, Ont.
Marie-P. Poulin	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.
Shirley Maheu	Rougemont	Saint-Laurent, Que.
Wilfred P. Moore	Stanhope St./Bluenose	Chester, N.S.
Lucie Pépin	Shawinigan	Montreal, Que.
Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Catherine S. Callbeck	Prince Edward Island	Central Bedeque, P.E.I.
Marisa Ferretti Barth	Repentigny	Pierrefonds, Que.
Serge Joyal, P.C.	Kennebec	Montreal, Que.
Joan Cook	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Ross Fitzpatrick	Okanagan-Similkameen	Kelowna, B.C.
Francis William Mahovlich	Toronto	Toronto, Ont.
Richard H. Kroft	Manitoba	Winnipeg, Man.
Douglas James Roche	Edmonton	Edmonton, Alta.
Joan Thorne Fraser	De Lorimier	Montreal, Que.
Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue, Que.
Yvienne Poy	Toronto	Toronto, Ont.
Gene Christensen	Yukon Territory	Whitehorse, Y.T.
George Furey	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Nick G. Sibbeston	Northwest Territories	Fort Simpson, N.W.T.
Isobel Finnerty	Ontario	Burlington, Ont.
Tommy Banks	Alberta	Edmonton, Alta.
Jane Cordy	Nova Scotia	Dartmouth, N.S.
Yves Morin	Lauzon	Quebec, Que.
Elizabeth M. Hubley	Prince Edward Island	Kensington, P.E.I.
Laurier L. LaPierre	Ontario	Ottawa, Ont.
Viola Léger	Acadie/New Brunswick	Moncton, N.B.
Mobina S. B. Jaffer	British Columbia	North Vancouver, B.C.
Jean Lapointe	Saurel	Magog, Que.
Gérard A. Phalen	Nova Scotia	Glace Bay, N.S.
Joseph A. Day	Saint John-Kennebecasis	Hampton, N.B.
Michel Biron	Mille Isles	Nicolet, Que.
George S. Baker, P.C.	Newfoundland and Labrador	Gander, Nfld. & Lab.
Raymond Lavigne	Montarville	Verdun, Que.
David P. Smith, P.C.	Cobourg	Toronto, Ont.
Maria Chaput	Manitoba	Sainte-Anne, Man.
Jana Merchant	Saskatchewan	Regina, Sask.
Cherrette Ringuette	New Brunswick	Edmundston, N.B.
Mersey Downe	Charlottetown	Charlottetown, P.E.I.
Gaul J. Massicotte	De Lanaudière	Mont-Royal, Que.
Mac Harb	Ontario	Ottawa, Ont.
Madeleine Plamondon	The Laurentides	Shawinigan, Que.
Marilyn Trenholme Counsell	New Brunswick	Sackville, N.B.
erry M. Mercer	Northend Halifax	Caribou River, N.S.
m Munson	Ottawa/Rideau Canal	Ottawa, Ont.



## SENATORS OF CANADA

## ALPHABETICAL LIST

(March 9, 2004)

Senator	Designation	Post Office Address	Political Affiliation
THE HONOURABLE			
Adams, Willie	Nunavut	Rankin Inlet, Nunavut	Lib
Andreychuk, A. Raynell	Regina	Regina, Sask.	C
Angus, W. David	Alma	Montreal, Que.	C
Atkins, Norman K.	Markham	Toronto, Ont.	PC
Austin, Jack, P.C.	Vancouver South	Vancouver, B.C.	Lib
Bacon, Lise	De la Durantaye	Laval, Que.	Lib
Baker, George S., P.C.	Newfoundland and Labrador	Gander, Nfld. & Lab.	Lib
Banks, Tommy	Alberta	Edmonton, Alta.	Lib
Beaudoin, Gérald-A.	Rigaud	Hull, Que.	C
Biron, Michel	Mille Isles	Nicolet, Que.	Lib
Bryden, John G.	New Brunswick	Bayfield, N.B.	Lib
Buchanan, John, P.C.	Halifax	Halifax, N.S.	C
Callbeck, Catherine S.	Prince Edward Island	Central Bedeque, P.E.I.	Lib
Carney, Pat, P.C.	British Columbia	Vancouver, B.C.	C
Carstairs, Sharon, P.C.	Manitoba	Victoria Beach, Man.	Lib
Chaput, Maria	Manitoba	Sainte-Anne, Man.	Lib
Christensen, Ione	Yukon Territory	Whitehorse, Y.T.	Lib
Cochrane, Ethel	Newfoundland and Labrador	Port-au-Port, Nfld. & Lab.	C
Comeau, Gerald J.	Nova Scotia	Church Point, N.S.	C
Cook, Joan	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Lib
Cools, Anne C.	Toronto-Centre-York	Toronto, Ont.	Lib
Corbin, Eymard Georges	Grand-Sault	Grand-Sault, N.B.	Lib
Cordy, Jane	Nova Scotia	Dartmouth, N.S.	Lib
Day, Joseph A.	Saint John-Kennebecasis	Hampton, N.B.	Lib
De Bané, Pierre, P.C.	De la Vallière	Montreal, Que.	Lib
Di Nino, Consiglio	Ontario	Downsview, Ont.	C
Doody, C. William	Harbour Main-Bell Island	St. John's, Nfld. & Lab.	PC
Downe, Percy	Charlottetown	Charlottetown, P.E.I.	Lib
Eyton, J. Trevor	Ontario	Caledon, Ont.	C
Fairbairn, Joyce, P.C.	Lethbridge	Lethbridge, Alta.	Lib
Ferretti Barth, Marisa	Repentigny	Pierrefonds, Que.	Lib
Finnerty, Isobel	Ontario	Burlington, Ont.	Lib
Fitzpatrick, Ross	Okanagan-Similkameen	Kelowna, B.C.	Lib
Forrestall, J. Michael	Dartmouth and the Eastern Shore	Dartmouth, N.S.	C
Fraser, Joan Thorne	De Lorimier	Montreal, Que.	Lib
Furey, George	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Lib
Gauthier, Jean-Robert	Ottawa-Vanier	Ottawa, Ont.	Lib
Gill, Aurélien	Wellington	Mashteuiatsh, Pointe-Bleue, Que.	Lib
Grafstein, Jerahmiel S.	Metro Toronto	Toronto, Ont.	Lib
Graham, Bernard Alasdair, P.C.	The Highlands	Sydney, N.S.	Lib
Gustafson Leonard J.	Saskatchewan	Macoun, Sask.	C
Harb, Mac.	Ontario	Ottawa, Ont.	Lib
Hays, Daniel Phillip, <i>Speaker</i>	Calgary	Calgary, Alta.	Lib
Hervieux-Payette, Céline, P.C.	Bedford	Montreal, Que.	Lib
Hubley, Elizabeth M.	Prince Edward Island	Kensington, P.E.I.	Lib
Jaffer, Mobina S. B.	British Columbia	North Vancouver, B.C.	Lib

Senator	Designation	Post Office Address	Political Affiliation
Johnson, Janis G.	Winnipeg-Interlake	Gimli, Man.	C
Joyal, Serge, P.C.	Kennebec	Montreal, Que.	Lib
Kelleher, James Francis, P.C.	Ontario	Sault Ste. Marie, Ont.	C
Kenny, Colin	Rideau	Ottawa, Ont.	Lib
Keon, Wilbert Joseph	Ottawa	Ottawa, Ont.	C
Kinsella, Noël A.	Fredericton-York-Sunbury	Fredericton, N.B.	C
Kirby, Michael	South Shore	Halifax, N.S.	Lib
Kroft, Richard H.	Manitoba	Winnipeg, Man.	Lib
LaPierre, Laurier L.	Ontario	Ottawa, Ont.	Lib
Lapointe, Jean	Saurel	Magog, Que.	Lib
Lavigne, Raymond	Montarville	Verdun, Que.	Lib
Lawson, Edward M.	Vancouver	Vancouver, B.C.	Lib
LeBreton, Marjory	Ontario	Manotick, Ont.	C
Léger, Viola	Acadie/New Brunswick	Moncton, N.B.	Lib
Losier-Cool, Rose-Marie	Tracadie	Bathurst, N.B.	Lib
Lynch-Staunton, John	Grandville	Georgeville, Que.	C
Maheu, Shirley	Rougemont	Saint-Laurent, Que.	Lib
Mahovich, Francis William	Toronto	Toronto, Ont.	Lib
Massicotte, Paul J.	De Lanaudière	Mont-Royal, Que.	Lib
Meighen, Michael Arthur	St. Marys	Toronto, Ont.	C
Mercer, Terry M.	Northend Halifax	Caribou River, N.S.	Lib
Merchant, Pana	Saskatchewan	Regina, Sask.	Lib
Milne, Lorna	Peel County	Brampton, Ont.	Lib
Moore, Wilfred P.	Stanhope St./Bluenose	Chester, N.S.	Lib
Morin, Yves	Lauson	Quebec, Que.	Lib
Munson, Jim	Ottawa/Rideau Canal	Ottawa, Ont.	Lib
Murray, Lowell, P.C.	Pakenham	Ottawa, Ont.	PC
Nolin, Pierre Claude	De Salaberry	Quebec, Que.	C
Oliver, Donald H.	Nova Scotia	Halifax, N.S.	C
Pearson, Landon	Ontario	Ottawa, Ontario	Lib
Pépin, Lucie	Shawinigan	Montreal, Que.	Lib
Phalen, Gerard A.	Nova Scotia	Glace Bay, N.S.	Lib
Pitfield, Peter Michael, P.C.	Ottawa-Vanier	Ottawa, Ont.	Ind
Plamondon, Madeleine	The Laurentides	Shawinigan, Que.	Ind
Poulin, Marie-P.	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.	Lib
Poy, Vivienne	Toronto	Toronto, Ont.	Lib
Prud'homme, Marcel, P.C.	La Salle	Montreal, Que.	Ind
Ringuette, Pierrette	New Brunswick	Edmundston, N.B.	Lib
Rivest, Jean-Claude	Stadacona	Quebec, Que.	C
Robertson, Brenda Mary	Riverview	Shediac, N.B.	C
Robichaud, Fernand, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.	Lib
Roche, Douglas James	Edmonton	Edmonton, Alta.	Ind
Rompkey, William H., P.C.	Labrador	North West River, Labrador, Nfld. & Lab.	Lib
Rossiter, Eileen	Prince Edward Island	Charlottetown, P.E.I.	C
St. Germain, Gerry, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.	C
Sibbeston, Nick G.	Northwest Territories	Fort Simpson, N.W.T.	Lib
Smith, David P., P.C.	Cobourg	Toronto, Ont.	Lib
Sparrow, Herbert O.	Saskatchewan	North Battleford, Sask.	Lib
Spivak, Mira	Manitoba	Winnipeg, Man.	Ind
Stollery, Peter Alan	Bloor and Yonge	Toronto, Ont.	Lib
Stratton, Terrance R.	Red River	St. Norbert, Man.	C
Tkachuk, David	Saskatchewan	Saskatoon, Sask.	C
Trenholme Counsell, Marilyn	New Brunswick	Sackville, N.B.	Lib
Watt, Charlie	Inkerman	Kuujuuaq, Que.	Lib



## SENATORS OF CANADA

### BY PROVINCE AND TERRITORY

(March 9, 2004)

### ONTARIO—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Lowell Murray, P.C.	Pakenham	Ottawa
2 Peter Alan Stollery	Bloor and Yonge	Toronto
3 Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa
4 Jeremiah S. Grafstein	Metro Toronto	Toronto
5 Anne C. Cools	Toronto-Centre-York	Toronto
6 Colin Kenny	Rideau	Ottawa
7 Norman K. Atkins	Markham	Toronto
8 Consiglio Di Nino	Ontario	Downsview
9 James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie
10 John Trevor Eyton	Ontario	Caledon
11 Wilbert Joseph Keon	Ottawa	Ottawa
12 Michael Arthur Meighen	St. Marys	Toronto
13 Marjory LeBreton	Ontario	Manotick
14 Landon Pearson	Ontario	Ottawa
15 Jean-Robert Gauthier	Ottawa-Vanier	Ottawa
16 Lorna Milne	Peel County	Brampton
17 Marie-P. Poulin	Northern Ontario	Ottawa
18 Francis William Mahovlich	Toronto	Toronto
19 Vivienne Poy	Toronto	Toronto
20 Isobel Finnerty	Ontario	Burlington
21 Laurier L. LaPierre	Ontario	Ottawa
22 David P. Smith, P.C.	Cobourg	Toronto
23 Mac Harb	Ontario	Ottawa
24 Jim Munson	Ottawa/Rideau Canal	Ottawa

## SENATORS BY PROVINCE AND TERRITORY

## QUEBEC—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Charlie Watt	Inkerman	Kuujuuaq
2 Pierre De Bané, P.C.	De la Vallière	Montreal
3 Gérard-A. Beaudoin	Rigaud	Hull
4 John Lynch-Staunton	Grandville	Georgeville
5 Jean-Claude Rivest	Stadacona	Quebec
6 Marcel Prud'homme, P.C.	La Salle	Montreal
7 W. David Angus	Alma	Montreal
8 Pierre Claude Nolin	De Salaberry	Quebec
9 Lise Bacon	De la Durantaye	Laval
10 Céline Hervieux-Payette, P.C.	Bedford	Montreal
11 Shirley Maheu	Rougemont	Ville de Saint-Laurent
12 Lucie Pépin	Shawinigan	Montreal
13 Marisa Ferretti Barth	Repentigny	Pierrefonds
14 Serge Joyal, P.C.	Kennebec	Montreal
15 Joan Thorne Fraser	De Lorimier	Montreal
16 Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue
17 Yves Morin	Lauzon	Quebec
18 Jean Lapointe	Sauvel	Magog
19 Michel Biron	Milles Isles	Nicolet
20 Raymond Lavigne	Montarville	Verdun
21 Paul J. Massicotte	De Lanaudière	Mont-Royal
22 Madeleine Plamondon	The Laurentides	Shawinigan
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## SENATORS BY PROVINCE-MARITIME DIVISION

## NOVA SCOTIA—10

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Bernard Alasdair Graham, P.C.	The Highlands	Sydney
2 Michael Kirby	South Shore	Halifax
3 Gerald J. Comeau	Nova Scotia	Church Point
4 Donald H. Oliver	Nova Scotia	Halifax
5 John Buchanan, P.C.	Halifax	Halifax
6 J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth
7 Wilfred P. Moore	Stanhope St./Bluenose	Chester
8 Jane Cordy	Nova Scotia	Dartmouth
9 Gerard A. Phalen	Nova Scotia	Glace Bay
10 Terry M. Mercer	Northend Halifax	Caribou River

## NEW BRUNSWICK—10

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Eymard Georges Corbin	Grand-Sault	Grand-Sault
2 Brenda Mary Robertson	Riverview	Shediac
3 Noël A. Kinsella	Fredericton-York-Sunbury	Fredericton
4 John G. Bryden	New Brunswick	Bayfield
5 Rose-Marie Losier-Cool	Tracadie	Bathurst
6 Fernand Robichaud, P.C.	Saint-Louis-de-Kent	Saint-Louis-de-Kent
7 Viola Léger	Acadie/New Brunswick	Moncton
8 Joseph A. Day	Saint John-Kennebecasis	Hampton
9 Pierrette Ringuette	New Brunswick	Edmundston
10 Marilyn Trenholme Counsell	New Brunswick	Sackville

## PRINCE EDWARD ISLAND—4

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Eileen Rossiter	Prince Edward Island	Charlottetown
2 Catherine S. Callbeck	Prince Edward Island	Central Bedeque
3 Elizabeth M. Hubley	Prince Edward Island	Kensington
4 Percy Downe	Charlottetown	Charlottetown

## SENATORS BY PROVINCE-WESTERN DIVISION

## MANITOBA—6

Senator	Designation	Post Office Address
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## THE HONOURABLE

1 Mira Spivak . . . . .	Manitoba . . . . .	Winnipeg
2 Janis G. Johnson . . . . .	Winnipeg-Interlake . . . . .	Gimli
3 Terrance R. Stratton . . . . .	Red River . . . . .	St. Norbert
4 Sharon Carstairs, P.C. . . . .	Manitoba . . . . .	Victoria Beach
5 Richard H. Kroft . . . . .	Manitoba . . . . .	Winnipeg
6 Maria Chaput . . . . .	Manitoba . . . . .	Sainte-Anne

## BRITISH COLUMBIA—6

Senator	Designation	Post Office Address
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## THE HONOURABLE

1 Edward M. Lawson . . . . .	Vancouver . . . . .	Vancouver
2 Jack Austin, P.C. . . . .	Vancouver South . . . . .	Vancouver
3 Pat Carney, P.C. . . . .	British Columbia . . . . .	Vancouver
4 Gerry St. Germain, P.C. . . . .	Langley-Pemberton-Whistler . . . . .	Maple Ridge
5 Ross Fitzpatrick . . . . .	Okanagan-Similkameen . . . . .	Kelowna
6 Mobina S.B. Jaffer . . . . .	British Columbia . . . . .	North Vancouver

## SASKATCHEWAN—6

Senator	Designation	Post Office Address
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## THE HONOURABLE

1 Herbert O. Sparrow . . . . .	Saskatchewan . . . . .	North Battleford
2 A. Raynell Andreychuk . . . . .	Regina . . . . .	Regina
3 Leonard J. Gustafson . . . . .	Saskatchewan . . . . .	Macoun
4 David Tkachuk . . . . .	Saskatchewan . . . . .	Saskatoon
5 Pana Merchant . . . . .	Saskatchewan . . . . .	Regina
6 . . . . .	. . . . .	. . . . .

## ALBERTA—6

Senator	Designation	Post Office Address
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## THE HONOURABLE

1 Daniel Phillip Hays, <i>Speaker</i> . . . . .	Calgary . . . . .	Calgary
2 Joyce Fairbairn, P.C. . . . .	Lethbridge . . . . .	Lethbridge
3 Douglas James Roche . . . . .	Edmonton . . . . .	Edmonton
4 Tommy Banks . . . . .	Alberta . . . . .	Edmonton
5 . . . . .	. . . . .	. . . . .
6 . . . . .	. . . . .	. . . . .



## SENATORS BY PROVINCE AND TERRITORY

## NEWFOUNDLAND AND LABRADOR—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 C. William Doody	Harbour Main-Bell Island	St. John's
2 Ethel Cochrane	Newfoundland and Labrador	Port-au-Port
3 William H. Rompkey, P.C.	Labrador	North West River, Labrador
4 Joan Cook	Newfoundland and Labrador	St. John's
5 George Furey	Newfoundland and Labrador	St. John's
6 George S. Baker, P.C.	Newfoundland and Labrador	Gander

## NORTHWEST TERRITORIES—1

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Nick G. Sibbeston	Northwest Territories	Fort Simpson

## NUNAVUT—1

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Willie Adams	Nunavut	Rankin Inlet

## YUKON TERRITORY—1

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Ione Christensen	Yukon Territory	Whitehorse

## ALPHABETICAL LIST OF STANDING, SPECIAL AND JOINT COMMITTEES

(As of March 9, 2004)

\*Ex Officio Member

## ABORIGINAL PEOPLES

Chair: Honourable Senator Sibbeston

Deputy Chair: Honourable Senator Johnson

## Honourable Senators:

* Austin, (or Rompkey)	Christensen, Gill,	* Lynch-Staunton, (or Kinsella)	Sibbeston, St. Germain,
Carney,	Johnson,	Pearson,	Tkachuk,
Chaput,	Léger,	Mercer,	Weibe.

*Original Members as nominated by the Committee of Selection*

\*Austin (or Rompkey), Carney, Chaput, Christensen, Gill, Johnson, Léger,

\*Lynch-Staunton (or Kinsella), Pearson, Mercer, Sibbeston, St. Germain, Tkachuk, Trenholme Counsell.

## AGRICULTURE AND FORESTRY

Chair: Honourable Senator Oliver

Deputy Chair: Honourable Senator Fairbairn

## Honourable Senators:

* Austin, (or Rompkey)	Gustafson, Hubley,	* Lynch-Staunton, (or Kinsella)	Ringuette, St. Germain,
Callbeck,	LaPierre,	Mercer,	Sparrow,
Fairbairn,	Lawson,	Oliver,	Tkachuk.

*Original Members as nominated by the Committee of Selection*

\*Austin (or Rompkey), Callbeck, Day, Fairbairn, Fitzpatrick, Gustafson, Hubley, LaPierre,

\*Lynch-Staunton (or Kinsella), Oliver, Ringuette, St. Germain, Sparrow, Tkachuk.

## BANKING, TRADE AND COMMERCE

Chair: Honourable Senator Kroft

Deputy Chair: Honourable Senator Tkachuk

## Honourable Senators:

Angus,	Fitzpatrick,	Kroft,	Meighen,
* Austin, (or Rompkey)	Harb,	* Lynch-Staunton, (or Kinsella)	Moore,
Biron,	Hervieux-Payette,	Massicotte,	Prud'homme,
	Kelleher,		Tkachuk.

*Original Members as nominated by the Committee of Selection*

Angus, \*Austin (or Rompkey), Biron, Fitzpatrick, Harb, Hervieux-Payette, Kelleher, Kroft,

\*Lynch-Staunton (or Kinsella), Massicotte, Meighen, Moore, Prud'homme, Tkachuk.



## ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

Chair: Honourable Senator Banks

Deputy Chair: Honourable Senator Spivak

## Honourable Senators:

* Austin, (or Rompkey)	Buchanan, Christensen, Cochrane, Eyton,	Finnerty, Kenny, * Lynch-Staunton, (or Kinsella)	Merchant, Milne, Spivak, Watt.
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*Original Members as nominated by the Committee of Selection*

\*Austin (or Rompkey), Baker, Banks, Buchanan, Christensen, Cochrane, Eyton, Finnerty, Kenny, \*Lynch-Staunton (or Kinsella), Merchant, Milne, Spivak, Watt.

## FISHERIES AND OCEANS

Chair: Honourable: Senator Comeau

Deputy Chair: Honourable Senator Cook

## Honourable Senators:

Adams, * Austin, (or Rompkey)	Comeau, Cook, Hubley, Johnson,	* Lynch-Staunton, (or Kinsella) Mahovlich, Meighen,	Phalen, Robichaud, Trenholme Counsell, Watt.
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*Original Members as nominated by the Committee of Selection*

Adams, \*Austin (or Rompkey), Cochrane, Comeau, Cook, Hubley, Johnson, \*Lynch-Staunton (or Kinsella), Mahovlich, Meighen, Phalen, Robichaud, Trenholme Counsell, Watt.

## FOREIGN AFFAIRS

Chair: Honourable Senator Stollery

Deputy Chair: Honourable Senator Di Nino

## Honourable Senators:

Andreychuk, * Austin, (or Rompkey)	Corbin, De Bané, Di Nino, Eyton	Grafstein, Graham, * Lynch-Staunton, (or Kinsella)	Mahovlich, Poy, Sparrow, Stollery.
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*Original Members as nominated by the Committee of Selection*

Andreychuk, \*Austin (or Rompkey), Carney, Corbin, De Bané, Di Nino, Eyton, Grafstein, Graham, \*Lynch-Staunton (or Kinsella), Mahovlich, Poy, Sparrow, Stollery.

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Deputy Chair: Honourable Senator Rossiter

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Beaudoin, Ferretti Barth,	* Lynch-Staunton, (or Kinsella)	Poy,	

*Original Members as nominated by the Committee of Selection*

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\* Lynch-Staunton (or Kinsella), Maheu, Munson, Poy, Rivest, Rossiter.

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Interim Deputy Chair: Honourable Senator Robertson

## Honourable Senators:

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Bacon, Bryden,	Gauthier,	* Lynch-Staunton, (or Kinsella)	Robertson, Stratton.

*Original Members as nominated by the Committee of Selection*

Atkins, \* Austin (or Rompkey), Bacon, Bryden, Cook, De Bané, Eyton, Gauthier, Gill,  
Jaffer, Kinsella, \* Lynch-Staunton (or Kinsella), Massicotte, Munson, Poulin, Robertson, Stratton.

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Baker, Beaudoin,	Furey,		

*Original Members as nominated by the Committee of Selection*

Andreychuk, \* Austin (or Rompkey), Baker, Beaudoin, Bryden, Buchanan, Cools, Furey, Jaffer,  
Joyal, \* Lynch-Staunton (or Kinsella), Nolin, Pearson, Smith.



## LIBRARY OF PARLIAMENT (Joint)

Joint Chair: Morin

Vice-Chair:

Honourable Senators:

Forrestall,	Lapointe,	Morin,	Poy.
Kinsella,			

*Original Members agreed to by Motion of the Senate**Forrestall, Kinsella, Lapointe, Morin, Poy.*

## NATIONAL FINANCE

Chair: Honourable Senator Murray

Deputy Chair: Honourable Senator Day

Honourable Senators:

* Austin,	Doody,	Furey,	Murray,
(or Rompkey)	Downe,	Gauthier,	Oliver,
Biron,	Ferretti Barth,	* Lynch-Staunton,	Ringuette.
Comeau,	Finnerty,	(or Kinsella)	
Day,			

*Original Members as nominated by the Committee of Selection**\*Austin (or Rompkey), Biron, Comeau, Day, Doody, Downe, Ferretti Barth, Finnerty, Furey, Gauthier, \*Lynch-Staunton (or Kinsella), Murray, Oliver, Ringuette.*

## NATIONAL SECURITY AND DEFENCE

Chair: Honourable Senator Kenny

Deputy Chair: Honourable Senator Forrestall

Honourable Senators:

Atkins,	Buchanan,	Kenny,	Meighen,
* Austin,	Cordy,	* Lynch-Staunton,	Munson,
(or Rompkey)	Day,	(or Kinsella)	Smith.
Banks,			

*Original Members as nominated by the Committee of Selection**Atkins, \*Austin (or Rompkey), Banks, Cordy, Day, Forrestall, Kenny, \*Lynch-Staunton (or Kinsella), Meighen, Munson, Smith.*

## VETERANS AFFAIRS

(Subcommittee of National Security and Defence)

Chair: Honourable Senator Meighen

Deputy Chair: Honourable Senator Day

## Honourable Senators:

Atkins,	Day,	* Lynch-Staunton,	Meighen.
Banks,	Kenny,	(or Kinsella)	
* Austin,			
(or Rompkey)			

## OFFICIAL LANGUAGES

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Deputy Chair: Honourable Senator Keon

## Honourable Senators:

* Austin,	Chaput,	Keon,	* Lynch-Staunton,
(or Rompkey)	Comeau,	Lapointe,	(or Kinsella)
Beaudoin,	Gauthier,	Léger,	Maheu,
			Munson.

*Original Members agreed to by Motion of the Senate*

*\*Austin (or Rompkey), Beaudoin, Chaput, Comeau, Gauthier, Keon, Lapointe, Léger, \*Lynch-Staunton (or Kinsella), Maheu, Munson.*

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

Chair: Honourable Senator Milne

Deputy Chair: Honourable Senator Andreychuk

## Honourable Senators:

Andreychuk,	Fraser,	Losier-Cool,	Ringuette,
* Austin,	Grafstein,	* Lynch-Staunton,	Robertson,
(or Rompkey)	Harb,	(or Kinsella)	Smith,
Di Nino,	Hubley,	Milne,	Stratton.
Downe,	Joyal,	Murray,	

*Original Members as nominated by the Committee of Selection*

*Andreychuk, \*Austin (or Rompkey), Di Nino, Downe, Fraser, Grafstein, Harb, Hubley, Joyal, Losier-Cool, \*Lynch-Staunton (or Kinsella), Milne, Murray, Ringuette, Robertson, Smith, Stratton.*



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**Joint Chair: Honourable Hervieux-Payette**

**Vice-Chair:**

**Honourable Senators:**

Biron,	Hervieux-Payette,	Lavigne,	Nolin.
Harb,	Kelleher,	Moore,	

*Original Members as agreed to by Motion of the Senate*  
*Biron, Harb, Hervieux-Payette, Kelleher, Lavigne, Moore, Nolin.*

---

### SELECTION

**Chair: Honourable Senator Losier-Cool**

**Deputy Chair: Honourable Senator Stratton**

**Honourable Senators:**

* Austin,	Fairbairn,	Losier-Cool,	Rompkey,
(or Rompkey)	Kinsella,	* Lynch-Staunton,	Stratton,
Bacon,	LeBreton,	(or Kinsella)	Tkachuk.
Carstairs,			

*Original Members agreed to by Motion of the Senate*  
*\*Austin (or Rompkey), Bacon, Carstairs, Fairbairn, Kinsella,*  
*LeBreton, Losier-Cool, \*Lynch-Staunton (or Kinsella) Rompkey, Stratton, Tkachuk.*

---

### SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

**Chair: Honourable Senator Kirby**

**Deputy Chair: Honourable Senator LeBreton**

**Honourable Senators:**

* Austin,	Cordy,	LeBreton,	Morin,
(or Rompkey)	Fairbairn,	Léger,	Robertson,
Callbeck,	Keon,	* Lynch-Staunton,	Roche,
Cook,	LaPierre,	(or Kinsella)	Rossiter.

*Original Members as nominated by the Committee of Selection*  
*\*Austin (or Rompkey), Callbeck, Cook, Cordy, Fairbairn, Keon, Kirby, LeBreton,*  
*Léger, \*Lynch-Staunton (or Kinsella), Morin, Robertson, Roche, Rossiter.*

---

TRANSPORT AND COMMUNICATIONS

Chair: Honourable Senator Fraser

Deputy Chair: Honourable Senator Gustafson

Honourable Senators:

Adams,	Day,	Gustafson,	Merchant,
* Austin,	Eyton,	Johnson,	Phalen,
(or Rompkey)	Fraser,	LaPierre,	Spivak.
Corbin,	Graham,	* Lynch-Staunton,	
		(or Kinsella)	

*Original Members as nominated by the Committee of Selection*

*Adams, \*Austin (or Rompkey), Corbin, Day, Eyton, Fraser, Graham, Gustafson, Johnson, LaPierre, \*Lynch-Staunton (or Kinsella), Merchant, Phalen, Spivak.*



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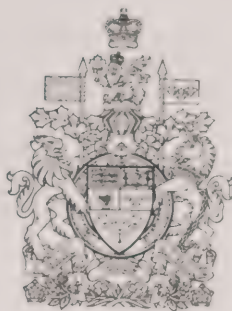
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CANADA

# Debates of the Senate

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3rd SESSION

• 37th PARLIAMENT

• VOLUME 141

• NUMBER 19

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OFFICIAL REPORT  
(HANSARD)

**Wednesday, March 10, 2004**

—  
THE HONOURABLE DAN HAYS  
SPEAKER





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(Daily index of proceedings appears at back of this issue).

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## THE SENATE

Wednesday, March 10, 2004

The Senate met at 1:30 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

[Translation]

### SENATORS' STATEMENTS

#### FREEDOM OF EXPRESSION WEEK

**Hon. Pierre Claude Nolin:** Honourable senators, a few days ago we were celebrating Freedom of Expression Week.

In 1986 the Supreme Court of Canada made a ruling on freedom of expression in the *Dolphin Delivery* case, from which I shall quote:

Freedom of expression is ... one of the fundamental concepts that has formed the basis for the historical development of the political, social and educational institutions of western society. Representative democracy, as we know it today, which is in great part the product of free expression and discussion of varying ideas, depends upon its maintenance and protection.

Honourable senators, one of the essential components of this right is undoubtedly freedom of the press. Every day, journalists — both men and women — risk their health, their safety, and sometimes their lives reporting from the four corners of the world to bring us information on events that are often violent and tragic.

On Sunday, a Spanish journalist was killed in Haiti while covering a demonstration by those opposed to former President Aristide. We are reminded of Zara Kazemi, the Quebec photographer of Iranian origin who was killed while doing her job in Iran, another facet of this sad and very real reality.

In 2003, freedom of the press had a rough ride all across the planet. In total, 42 journalists were killed, mainly in Asia and the Middle East. According to Reporters Without Borders, 119 journalists are currently imprisoned worldwide because of their work as journalists. In a number of countries, particularly Iran, Algeria, Nigeria and Russia, journalists work under constant fear of reprisals by government authorities.

Honourable senators, it is easy to simply decry or condemn the actions of the governments of those countries. But that will not solve the problem. I believe we must develop productive and harmonious relationships with these countries so that, in the not too distant future, they will be able to encourage democratisation and the respect for freedom of expression, in accordance with their own traditions, culture and institutions — not ours.

**The Hon. the Speaker *pro tempore*:** I am sorry to interrupt you Senator Nolin, but your time is up. Do you wish to seek leave to conclude your statement?

**Senator Nolin:** Yes.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to grant the honourable senator leave to conclude his statement?

**Hon. Senators:** Yes.

**Senator Nolin:** Honourable senators, too often in a democratic country like Canada, we forget that freedom of expression is a precious heritage that must constantly be defended. I am thinking about the search of the office and home of Juliet O'Neill, a journalist at the *Ottawa Citizen*.

Whether here or elsewhere in the world, even if they do not always agree with what journalists report, politicians must ensure that freedom of expression is respected in order to preserve democracy and particularly citizens' faith in their public and political institutions.

[English]

#### UNITED NATIONS COMMISSION ON STATUS OF WOMEN

**Hon. Mobina S. B. Jaffer:** Honourable senators, "War does not have a single face. Who I am influences how I am impacted and how I act." These thoughts resonated with delegates from around the world last week at the United Nations Commission on the Status of Women in New York.

Women and men from around the world, some of whom have seen and survived conflict, others who have dedicated their lives to the resolution of conflict, sat together and discussed their support for the role of men and boys in achieving gender equality and women's equal participation in conflict prevention, management and conflict resolution and in post-conflict peace building. I am proud to say that Canada is leading the world in areas of gender and security and is actively implementing United Nations Security Council Resolution 1325.

As Chair of the Canadian Committee on Women, Peace and Security, I participated as a member of the Canadian delegation, which was headed by the Honourable Jean Augustine, Minister of State for Multiculturalism and the Status of Women, to the Commission on the Status of Women. The commission provided a unique opportunity for delegates of member states to meet face to face. Canada had a very active delegation at the commission and was often commended on our groundbreaking initiatives on issues of gender and security. The Canadian Committee on Women, Peace and Security was also quoted as being a "flagship" organization and will now be used as a model for countries like Norway, France, Germany and South Africa.

General Dallaire was also part of the Canadian delegation and spoke to the United Nations launch of Canada's Gender Training Initiative for peacekeepers and the launch of the committee's ID-Rom, which illustrates that women, men, boys and girls all experience war differently. The launch was held at the Permanent Mission of Canada to the United Nations to highlight the partnership between Canada and the United Kingdom in piloting this unique training course. The Department of Peacekeeping Operations at the UN was also interested in Canada's work, and we shared our ID-Rom training package with them. We look forward to working together on future initiatives.

• (1340)

Honourable senators, UN Resolution 1325 clearly calls for gender training for peacekeepers, and Canada is moving toward making that promise a reality. The Canadian Committee on Women, Peace and Security believes that to ensure that women are protected in zones of conflict where Canadian peacekeepers are in operation, soldiers must be trained to understand that everyone is affected differently by conflict and that sexual violence against women is used as a weapon of war. Further, in areas of conflict when men join or are forced to fight or are missing, it is primarily women who hold communities together. However, women are rarely at the peace table. To build sustainable peace, we must understand the gender dimension of conflicts.

On behalf of the Canadian Committee on Women, Peace and Security and the Canadian delegation to the United Nations Commission on the Status of Women, I would like to thank Ambassador Rock and Ambassador Laurin for hosting the delegation and for their strong commitment to the women, peace and security agenda.

**The Hon. the Speaker *pro tempore*:** I regret to advise the honourable senator that her time has expired.

## CHILDREN WITH LEARNING DISABILITIES

**Hon. Marilyn Trenholme Counsell:** Honourable senators, in my reply to the Speech from the Throne, I asked you to be champions for children. Today, I wish to address the issue of children with learning disabilities. Senator Meighen has set an example at Mount Allison University with the Meighen Centre.

Throughout March, learning disabilities associations across Canada will continue their 40-year history of advocating not only for children, but also for youth and adults with learning disabilities. I ask honourable senators to join these dedicated volunteers so that all may learn, may read, may find employment and may enjoy a greater sense of pride and fulfillment.

Three to four children in every classroom have a learning disability, either diagnosed or often undiagnosed. One in five children experience difficulty learning to read. This translates into 20 per cent, at least, of the work force with a serious disability unless early diagnostic, preventive and sustained special instruction measures are in every community and school.

The incidence of school drop out, childhood depression, teenage suicide and substance abuse is statistically higher for students with learning disabilities.

[Translation]

They continue to be vulnerable throughout their adult life.

[English]

We know so much now about the complex neurological disabilities underlying learning disorders and we can now do so much more. However, early diagnosis and intervention continue to elude far too many of our children.

The learning disabilities associations call for screening of three- to five-year olds, followed by speech, language and reading therapy preschool; all of this so that each child entering school will be ready to learn.

[Translation]

These children and adults, despite the challenge they must overcome, are often very intelligent. Albert Einstein is one example.

Honourable senators, we must get the point across that this 20 per cent of people with learning disabilities must not be denied the opportunity to become fully contributing members of our society.

[English]

One mother said recently that somebody finally understands the missing piece. Honourable senators, you and I can be that somebody — somebody to relieve the pain of a child with learning disabilities.

## THE LATE DR. KENT ELLIS, O.P.E.I.

**Hon. Catherine S. Callbeck:** Honourable senators, I rise today to pay tribute to an exceptional human being, a man whose passing in the last week has left a tremendous void in the community and province of which he was so much a part.

Dr. Kent Ellis was a medical doctor in Prince Edward Island for more than 40 years. He practised in the rural area of Hunter River and could best be described as a country doctor in the finest tradition of that term.

I pay tribute to him today because, as Canadians, we need to recognize and celebrate our distinguished citizens who have left such a mark on our community and our country.

It was said of Dr. Ellis that no matter how busy he was, and he was an extremely busy family doctor, he never turned anyone away. If people were unable to make it to his office, he would travel to see them in their homes. He took not only a professional interest in the health and well-being of his patients, but also a sincere personal interest as well. For his patients, he was not just their doctor; he was their friend.

Dr. Ellis retired last year and his retirement created a tremendous sense of loss in the community that he served with such dedication and caring.



Dr. Ellis was also very active in the profession of medicine. He served as President of the Medical Society of Prince Edward Island and as a member of the board of directors of the Canadian Medical Association. In 1998, he was named a senior member of the Canadian Medical Association. He was active in a number of other community groups, volunteering freely of his time and considerable talents.

In 1996, Dr. Ellis was recognized with the Order of Prince Edward Island, in recognition of his many contributions to the province that he loved so dearly.

Dr. Ellis was also active in the tourism industry. He truly loved to meet visitors from all over the world at his campground. He was a founding member of the Tourism Industry Association of Prince Edward Island. In 1993, he and his wife were recipients of the Lieutenant Governor's award for their commitment and contribution to the industry.

With the passing of Dr. Ellis, Prince Edward Island and Canada have lost one of our most distinguished and respected citizens. I extend my sincere sympathies to his wife Etta, his sons Reagh, David and Paul and their families.

#### NATIONAL COMMITTEE FOR INJURED NURSES OF CANADA

**Hon. Elizabeth Hubley:** Honourable senators, it is not an overstatement to say that our health care system is dependent upon the devoted and highly skilled work of professional nurses. Much of this system operates by a proverbial thread and nurses are doing more than their share to hold it all together.

Throughout Canada, in hospitals, clinics, health centres, nursing homes and palliative care facilities, day and night, nurses care for those who are sick, aged and infirm, giving themselves unselfishly to a job that frequently is risk-filled and dangerous.

Each year, thousands of nurses are injured in the workplace. Some of them sustain physical injuries through heavy lifting of patients or from needle sticks and health-threatening infections from VRE, MSRA, hepatitis B and C, and HIV. Other nurses experience chronic fatigue, stress and burnout from overwork.

The Romanow report of November 2002 noted that absenteeism among nurses rose steadily from 6.8 per cent in 1986 to 8.5 per cent in 1999 and represents a major expense for health care institutions.

Health Canada has estimated that nurse injury costs Canadians between \$962 million and \$1.5 billion annually in overtime, absentee wages and replacement of registered nurses.

It has become apparent to health care providers that future recruitment and retention of the nursing workforce will depend upon the prevention of injury in the workplace. Put simply, if we do not act to improve the working conditions of our professional nurses and if we do not reward them fairly, we cannot expect to have their services in the future.

I am pleased to inform honourable senators that exciting new work is being done to address this problem. In March 2003, a committee for injured nurses was established in my own province of Prince Edward Island. Since that time, interest has grown rapidly, with health care providers in British Columbia, Alberta, Ontario, Nova Scotia and New Brunswick forming what has become a national Committee for Injured Nurses of Canada, the CINCA. The overall goal of this committee is to promote wellness, provide education, prevent injuries and support nurses. The committee acknowledges the integrity and dignity of the professional nurse and the valuable contribution that nurses offer to society. The committee will address, through research, nurses' concerns for their clients, work environment and profession.

**The Hon. the Speaker *pro tempore*:** I regret to inform the honourable senator that the time for her statement has expired.

• (1350)

#### YUKON QUEST 2004

**Hon. Ione Christensen:** Honourable senators, the toughest sled dog race in the world finished its twenty-first running at the end of March in Yukon. Each year the Yukon Quest brings together mushers from the Yukon and Alaska to compete in this gruelling race. This year we also had mushers from Alberta, the Northwest Territories, and as far away as Switzerland and Germany. The race runs between Whitehorse in the Yukon and Fairbanks, Alaska, following the Yukon River valley for much of the way. The starts are alternated between the two cities and this year the race ended in Whitehorse.

What makes this race unique, honourable senators, is the strong emphasis on endurance, not just speed. For over 1,001 miles — 1,600 kilometres — the teams must travel through two mountain ranges with temperatures ranging from minus 50 to plus 10 degrees Celsius. The weather is always the deciding factor with the snow, winds and warm Chinooks that sometimes melt the snow and leave bare ground with river overflows to travel through.

The teams must carry all of their equipment and supplies with only two stops, for handlers can help the mushers with the care and feeding of the dogs. Along the trail, checkpoints are from 30 to 100 kilometres apart, and for the mushers there is no guarantee that they will see another team during those long stretches.

At the mid-point in Dawson City, there is a mandatory 38-hour layover that ensures the mushers and the dogs have at least one good night's sleep during the race. At each checkpoint, vets monitor the health and the condition of the dogs to ensure they are fit and healthy. Each team starts with up to 14 dogs and must have at least six dogs when they finish. Sick or injured dogs are carried in the sled to the next checkpoint where handlers will care for them and take them home.

The most valued pieces of equipment are the booties that the dogs wear. They are made of fleece and Velcro and protect the dog's paws from the ice and snow. Each musher must leave each checkpoint with eight pairs of booties for each dog — 14 dogs, with 4 paws each, times eight booties, totals 448 booties. Add another four pairs of booties per dog in case of loss and

wear-out and the total is about 700 booties. Some mushers use as many as 1,000 booties during the race. Can honourable senators just imagine putting 56 booties on 14 howling dogs that only want to run? At the end of the race, the 1000-mile trail looks like a rainbow with all the booties left along the way.

This year, 31 teams entered and 20 teams finished. The winner was Hans Gatt from Atlin, British Columbia, just south of Whitehorse. He set a new Fairbanks-to-Whitehorse record of 10 days and 48 minutes. He also became the only three-time winner of the Yukon Quest, having won in 2002 and 2003. Mr. Gatt received U.S. \$30,000 and his two lead dogs were given the Golden Harness Award and a steak dinner in honour of their loyalty, endurance and perseverance throughout the race.

Honourable senators, the Yukon Quest brings out the spirit of the North through its challenges. Northerners always look forward to the event each year because it helps to perpetuate a way of life that one can only dream about today, although it was once the only way of travel in North America's last frontier.

## ROUTINE PROCEEDINGS

### COMMONWEALTH PARLIAMENTARY ASSOCIATION

FORTY-NINTH CONFERENCE,  
OCTOBER 4-14, 2003—REPORT TABLED

**Hon. Daniel Hays:** Honourable senators, with leave of the Senate, I have the honour to table the report of the Forty-Ninth Commonwealth Parliamentary Conference that was held in Dhaka, Bangladesh, from October 4 to 14, 2003.

**The Hon. the Speaker pro tempore:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

### PARLIAMENTARY DELEGATION TO MALAYSIA

REPORT TABLED

**Hon. Dan Hays:** Honourable senators, with leave of the Senate, I have the honour to table the report of the parliamentary delegation led by the Speaker of the Senate that travelled to Malaysia from September 12 to 16, 2003, at the invitation of his Excellency Tan Sri Dr. Abdul Hamid Pawanteh, President of Dewan Negara of Malaysia.

**The Hon. the Speaker pro tempore:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

### PARLIAMENTARY DELEGATION TO REPUBLIC OF KOREA

REPORT TABLED

**Hon. Dan Hays:** Honourable senators, with leave of the Senate, I have the honour to table the report of the parliamentary

delegation led by the Speaker of the Senate that travelled to the Republic of Korea from October 11 to 17, 2003 at the invitation of his Excellency Kwan Yong Park, Speaker of the National Assembly of the Republic of Korea.

**The Hon. the Speaker pro tempore:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

### PARLIAMENTARY DELEGATION TO MONGOLIA

REPORT TABLED

**Hon. Dan Hays:** Honourable senators, with leave of the Senate, I have the honour to table the report of the parliamentary delegation led by the Speaker of the Senate that travelled to Mongolia from September 8 to 12, 2003, at the invitation of his Excellency Sanjbezh Tumor-Ochir, Chairman of the State Great Hural of Mongolia.

**The Hon. the Speaker pro tempore:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

### HAZARDOUS PRODUCTS ACT

BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Tommy Banks,** Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Wednesday, March 10, 2004

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

### THIRD REPORT

Your Committee, to which was referred Bill C-260, to amend the Hazardous Products Act (fire-safe cigarettes) has, in obedience to the Order of Reference of Monday, February 23, 2004, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

TOMMY BANKS  
*Chair*



**The Hon. the Speaker *pro tempore*:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Morin, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

### PERSONAL WATERCRAFT BILL

#### REPORT OF COMMITTEE

**Hon. Tommy Banks,** Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Wednesday, March 10, 2004

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

#### FOURTH REPORT

Your Committee, to which was referred Bill S-8, concerning personal watercraft in navigable waters, has, in obedience to the Order of Reference of Thursday, February 12, 2004, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

**TOMMY BANKS**  
*Chair*

**The Hon. the Speaker *pro tempore*:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Banks, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[*Translation*]

### THE ESTIMATES, 2003-04

#### REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (B) PRESENTED

**Hon. Lowell Murray,** Chairman of the Standing Senate Committee on National Finance, presented the following report:

Wednesday, March 10, 2004

The Standing Senate Committee on National Finance has the honour to present its

#### THIRD REPORT

Your Committee, to which was referred the Supplementary Estimates "B" 2003-2004, has, in obedience to the Order of Reference of February 20, 2004, examined the said estimates and herewith presents its report.

Respectfully submitted,

**LOWELL MURRAY**  
*Chairman*

**The Hon. the Speaker *pro tempore*:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Murray, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[*English*]

#### REPORT OF NATIONAL FINANCE COMMITTEE ON MAIN ESTIMATES PRESENTED

**Hon. Lowell Murray,** Chairman of the Standing Senate Committee on National Finance, presented the following report:

Wednesday, March 10, 2004

The Standing Senate Committee on National Finance has the honour to present its

#### FOURTH REPORT

Your Committee, to which was referred the 2003-2004 Main Estimates, has, in obedience to the Order of Reference of February 13, 2004, examined the said estimates and herewith presents its report.

Respectfully submitted,

**LOWELL MURRAY**  
*Chairman*

**The Hon. the Speaker *pro tempore*:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Murray, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[*Translation*]

### BILL RESPECTING EQUALIZATION AND AUTHORIZING THE MINISTER OF FINANCE TO MAKE CERTAIN PAYMENTS RELATED TO HEALTH

#### FIRST READING

**The Hon. the Speaker *pro tempore*** informed the Senate that a message had been received from the House of Commons returning Bill C-18, respecting equalization and authorizing the Minister of Finance to make certain payments related to health.

Bill read first time.

**The Hon. the Speaker *pro tempore*:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Rompkey, bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

• (1400)

[English]

#### AGREEMENT ON INTERNAL TRADE IMPLEMENTATION ACT

##### BILL TO AMEND—FIRST READING

**Hon. James F. Kelleher** presented Bill S-14, to Amend the Agreement on Internal Trade Implementation Act.

Bill read first time.

**The Hon. the Speaker *pro tempore*:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Kelleher, bill placed on the Orders of the Day for second reading two days hence.

#### QUEEN'S THEOLOGICAL COLLEGE

##### PRIVATE BILL TO AMEND ACT OF INCORPORATION— FIRST READING

**Hon. Lowell Murray** presented Bill S-15, to amend the act of incorporation of Queen's Theological College.

Bill read first time.

**The Hon. the Speaker *pro tempore*:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Murray, with leave of the Senate and notwithstanding rule 57(1)(f), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

#### INTER-PARLIAMENTARY UNION

##### ONE-HUNDRED NINTH ASSEMBLY, SEPTEMBER 28-OCTOBER 3, 2003—REPORT TABLED

**Hon. Donald H. Oliver:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Inter-Parliamentary Group of the one-hundred and ninth Assembly and Related meetings of the Inter-Parliamentary Union held in Geneva, Switzerland from September 28 to October 3, 2003.

[Translation]

#### FOREIGN AFFAIRS

##### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT

**Hon. Consiglio Di Nino:** Honourable senators, I give notice that at the next sitting of the Senate I shall move:

That the Standing Senate Committee on Foreign Affairs, in accordance with Rule 95(3)(a) of the *Rules of the Senate*, be authorized to meet on March 17, 2004, even though the Senate may be adjourned for more than a week.

[English]

#### OFFICIAL LANGUAGES

##### BILINGUAL STATUS OF CITY OF OTTAWA— PRESENTATION OF PETITION

**Hon. Wilbert J. Keon:** Honourable senators, I have the honour to table petitions signed by another 85 people asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that Parliament consider the following:

That the Canadian Constitution provides that English and French are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the government of Canada;

That section 16 of the Constitution Act, 1867, designates the city of Ottawa as the seat of government of Canada;

That citizens have the right in the national capital to have access to the services provided by all institutions of the government of Canada in the official language of their choice, namely English or French;

That Ottawa, the capital of Canada, has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners call upon Parliament to affirm in the Constitution of Canada that Ottawa, the capital of Canada — the only one mentioned in the Constitution — be declared officially bilingual, under section 16 of the Constitution Acts from 1867 to 1982.

#### NUNAVIK

##### COST OF LIVING—DISCRIMINATORY TAX SYSTEM— PRESENTATION OF PETITION

**Hon. Charlie Watt:** Honourable senators, I have the honour to present a petition of 25 households from the northern municipality of Kangiqsualujjuaq, bringing the total to 125 households from the Nunavik region asking the Senate of Canada to consider the following points:

The petitioners pray and request that the Senate of Canada consider the following points:

That the villages of Nunavik are isolated northern communities with no road access to the goods and services paid for by taxpayers and readily available throughout southern Canada;



That the costs of living in Nunavik northern villages varies from a low of 150 per cent to a high of over 200 per cent of the cost of living in southern Canada, the average being 182 per cent of the cost of living in southern Canada;

That the highest cost of living in Nunavik and the filing of income tax returns, which are not available in the Inuit language, is therefore a burden on those individuals;

That the residents of Nunavik who do not file are hereby deprived of significant sums of money in refunds to which they are entitled;

That the above conditions give rise to legitimate grievances and fuel discontent among the residents of Nunavik;

That equality before the law requires more than treating people in the same way, but requires people to be given equal access and opportunities;

Therefore, your petitioners pray that the Senate:

- a) Study the grievances set out in this petition, the current systemic discriminations against them in the tax system and all other related matters that may seem to fit it, with a view to recommending measures that could be taken to promote the fair treatment and economic well-being of the residents of Nunavik; and,
- b) urge the Government of Canada to respond to these grievances without delay.

## QUESTION PERIOD

### BUSINESS DEVELOPMENT BANK

#### CONFIDENCE IN PRESIDENT AND CHIEF EXECUTIVE OFFICER AND BOARD OF DIRECTORS

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I should like to ask the Leader of the Government in the Senate a question which has arisen here on a couple of occasions in previous sessions with regard to the government's reaction to an announcement by the Business Development Bank of Canada on February 18, through a press release, which I drew to his attention at the time and of which I am sure he is now aware.

• (1410)

It said that not only did the bank decide not to appeal the scathing judgment against it regarding its vendetta against former president François Beaudoin, but it also, and I quote from this press release:

At its meeting this morning, the board unanimously reiterated its full confidence in the management of the bank, and specifically its president and chief executive officer, Michel Vennat.

Not long after, the Government of Canada suspended Mr. Vennat from his functions, asking him for an explanation regarding any participation, proper or not, in the sponsorship program. I do not know whether his reply has been received or not, but certainly the government showed a lack of confidence in Mr. Vennat by doing that, while at the same time being faced with a vote of full confidence in him by the board of directors.

If the government lacks confidence in the suspended president and chief executive officer of the bank, surely it must lack confidence in its board of directors.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I spoke to the Minister of Industry this morning and she still has under consideration the issue raised by Senator Lynch-Staunton's question, and also by the material submitted on behalf of Michel Vennat. There is no determination at this time.

**Senator Lynch-Staunton:** Surely, if the board of directors endorses in such a fulsome fashion the suspended president and CEO, it must approve of all those actions that the government believes are worthy of suspension. There is a contradiction here. If you do not have faith in the CEO of an agency, and that CEO is fully supported by the board, then you cannot have confidence in the board either. You cannot have it both ways. My suggestion is the board should be looked at and perhaps it, too, should be suspended and replaced.

**Senator Austin:** Honourable senators, in this situation, as any like situation, due process is required. Mr. Vennat has been suspended without pay and asked to justify his conduct to the Minister of Industry. That matter is under consideration, so it is quite premature to move on to the question of the board and its actions and its hypothetical future actions.

### FOREIGN AFFAIRS

#### AUDITOR GENERAL'S REPORT—SPONSORSHIP PROGRAM—RECALL OF AMBASSADOR TO DENMARK

**Hon. John Lynch-Staunton (Leader of the Opposition):** Speaking of due process, what due process was followed in the firing of the ambassador to Denmark? What due process was followed in the dismissal of Mr. Pelletier? What due process was followed in the dismissal of Mr. François, and what due process is being followed in the suspension of Mr. Vennat and Mr. Ouellette? Where is due process? These are unilateral decisions taken by the Government of Canada, and the country has no evidence before it to support those drastic actions.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, much of the subject matter of an answer to Senator Lynch-Staunton has already been given in this chamber. With respect to Mr. Gagliano, the former ambassador to Denmark, I have explained with great care that the appointment is one at the discretion of the government; and the government has withdrawn its confidence in the ambassador's ability to perform as an ambassador, due to the domestic issues that have been raised.

There is a long set of others mentioned by Senator Lynch-Staunton. This would not be an appropriate time to answer them one by one unless he wishes to provide the questions one by one.

**Senator Lynch-Staunton:** I have a supplementary question. Usually an ambassador is recalled because of complaints by the government to which he or she is sent. Were there any complaints by the government of Denmark regarding Mr. Gagliano?

**Senator Austin:** The issue of recall is entirely in the judgment of the Government of Canada with respect to the accusations made in the sponsorship issue and the role of former ambassador Gagliano when he was Minister of Public Works.

## INDUSTRY

### BUSINESS DEVELOPMENT BANK—QUEBEC SUPERIOR COURT RULING EXONERATING FORMER PRESIDENT

**Hon. Gerry St. Germain:** Honourable senators, my question is a supplementary and it is for the Leader of the Government in the Senate. If there is something rotten in Denmark, my question is this. We talk about confidence. Judge Denis clearly stated, without equivocation, that these people — Jean Carle and Michel Vennat — went on a vicious attack against François Beaudoin. Why is retribution taking so long? There was something rotten in Denmark, and the ambassador was brought home right away — he is sitting at pleasure.

Honourable senators, a respected judge of the judiciary of this country, has said that these people clearly misused their position in a witch hunt against François Beaudoin, an attack against his personality — raided his house, used \$4.5 million worth of taxpayers' dollars to attack this man, who was just trying to keep the Prime Minister of the day honest. Why is it taking so long for the Minister to reinstate him? Is she inept or does she not hear like the rest of them? Nobody knows what is going on. Tell us, Mr. Minister, please.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, first I want to point out that British Columbia senators are also Shakespeare scholars. I congratulate Senator St. Germain for his reference to the phrase in *Hamlet*. At the same time, I want to tell you that the consideration of the Minister of Industry is not a *Hamlet*-like consideration. These are very serious matters, Senator St. Germain, and due process requires that appropriate time be taken.

There may well be statements made in the response that require inquiry of others, third parties. I do not believe there is any foundation at the moment for any impatience with respect to this question.

## JUSTICE

### INVESTIGATION INTO MAHAR ARAR CASE— NATIONAL SECURITY ACT AMENDMENTS

**Hon. A. Raynell Andreychuk:** Honourable senators, yesterday it was disclosed that the Ottawa police were probably passing on

information with respect to Mr. Arar. This now means that the RCMP, the Ottawa police and perhaps other ministry officials had some hand in the Arar matter.

In light of the severe action that was taken against Mr. Arar, when can we count on this Arar inquiry starting? What resources have been released to ensure that they have full and adequate means to begin the inquiry?

Second, in light of the fact that the Prime Minister appeared to agree with most Canadians that sources by reporters should be protected and that section 4 of the National Security Act needs changing, when will the government move on that? Both of these issues have created what I call a censorship mood in Canada against certain people. They are afraid to move; they are afraid to talk. I believe the sooner we can get the facts out and the sooner that Canadians can be assured of their freedoms and their movement, the better.

Why has the Arar inquiry not started? Why has the government not moved to amend section 4 of the National Security Act?

**Hon. Jack Austin (Leader of the Government):** I agree entirely with one observation of Senator Andreychuk. Canadian citizens who are in apprehension of their personal security are deserving of the most immediate action on behalf of the Canadian government, where the Canadian government can relieve that particular situation.

With respect to the question relating to the Arar inquiry, the terms of reference have been drawn. However, beginning the hearings is entirely at the discretion of the inquiry commissioner. It is not a responsibility of the government. The commissioner has been given authority under the Inquiries Act to conduct the inquiry within the discretion and judgment of the commissioner.

With respect to the legislative proposal, which Senator Andreychuk has previously raised, this matter is being reviewed by the Deputy Prime Minister and the Minister of Public Safety, and I do not have any additional information to give at this time.

• (1420)

**Senator Andreychuk:** Honourable senators, we have been told in this chamber, and I certainly have been told outside of this chamber, that that kind of profiling is occurring. We need to have the Arar inquiry move forward as quickly as possible, and there must be an assurance by the government that there will be sufficient resources and that the government will not move as they did in the Somalia inquiry — shutting it down when the process either took a course that the government did not agree with or took longer than expected. In other words, if it is the government's position that they will not ask the Arar inquiry to move in any particular way, I think equally there should be an undertaking that they will not inhibit it in any way.

**Senator Austin:** Honourable senators, I can give that undertaking. There will be no inhibition of the Arar inquiry on behalf of the government. The government is as keen as any citizen to know the full story and to have Canadians know that full story.



## HEALTH

NEW INITIATIVES TO ALLEVIATE GENERAL STATE  
OF HEALTH OF ABORIGINAL COMMUNITY

**Hon. Wilbert J. Keon:** Honourable senators, I have a question for the Leader of the Government in the Senate. Last month, the Canadian Population Health Initiative released a study that looked into the extremely poor state of Aboriginal health in our country. It found that the life expectancy of First Nations and Inuit peoples is five to ten years less than it is for other Canadians. Aboriginal people living on reserve have higher infant mortality, diabetes and heart disease rates than other Canadians. They are also more likely to smoke, to have obesity problems or to die as a result of an injury. The report links health to income, stating, "income largely determines a Canadian's ability to purchase the necessities of a healthy life." We have all known that for some time, of course.

My question for the Leader of the Government is: Are there any new initiatives to deal with this truly urgent problem? I know the government has been attempting to deal with this on a long-term basis, but are there any new initiatives?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I am familiar, of course, with the report and the deplorable state of health in the Aboriginal community. Issues of emerging policy are under active review, but I have nothing I can announce to Senator Keon at this stage.

TUBERCULOSIS ELIMINATION STRATEGY—  
REQUEST FOR REVIEW

**Hon. Wilbert J. Keon:** Honourable senators, one of the more shocking statistics to come out of this report is that the tuberculosis rate among First Nations is 16 times higher than it is for non-Aboriginal Canadians. That statistic is more in keeping with what might be found in countries far less developed than our own. Twelve years ago, the tuberculosis elimination strategy was introduced, which aimed at ridding First Nations of this disease by 2010. The strategy has not been updated since its introduction. It would be highly beneficial to look at it again, especially in light of what has been learned from the SARS outbreak and in light of the development of new drugs. Could the Leader of the Government tell me if there is any possibility of having this strategy reviewed?

**Hon. Jack Austin (Leader of the Government):** Senator Keon, I will report your question to the Minister of Health and ask for a specific response, which I will make to you as soon as I receive it.

## FISHERIES AND OCEANS

## FUNDS TO REBUILD SATURNA ISLAND DOCK

**Hon. Pat Carney:** Honourable senators, recently I asked the Leader of the Government in the Senate why the government says it has no money to rebuild the government wharf on Saturna Island, which burned down nine months ago, or last June. I appreciate the answer that I received yesterday, but it is not very

helpful. Basically, it says that the request for funding arrived too late in the fiscal year. In fact, DFO, who owns the wharf, was there within a phone call. It took only one phone call to get the DFO officials over there, and their rough estimate of half a million dollars for this dock was submitted shortly after. They are in the business of building docks. They know what it costs.

The government recently announced \$8 million in disaster relief for Nova Scotia, for Hurricane Juan, which was in September. It is hard to explain to British Columbians why there is disaster relief money for Nova Scotia, for a September hurricane, when there are no funds to rebuild a government wharf that burned down nine months ago. I know Senator Austin is familiar with this area. For nine months, the volunteer ambulance crew has been "medivacing" at night by flashlight because the lights burned down. There is no other government dock. For nine months, the school kids have been on the school boat waiting in the dark, and all the tourists have been asked to use a porta-potty because the B.C. ferry terminal burned down when we lost the wharf.

Could the Leader of the Government give me further enlightenment on when we can expect to have this government-owned facility rebuilt for both the residents and the visitors to the national park?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, as I advised Senator Carney at the time of her previous question on this topic, I agree entirely with the priority that she assigns to the project, and I have added my representations to hers to the Minister of Fisheries. The explanation received was given in answer to her question yesterday. In addition, I would like to say that I have been told that the funds in this particular line item had been spent prior to the request being received, have been spent with respect to this fiscal year, which is almost over, and that the application is being actively considered in the forthcoming fiscal year.

I do want to comment, with respect, on the comparison between the natural disaster in Nova Scotia and the burning down of a specific dock, which is not a natural disaster but could be called an act of God. Under our policy, it has a different budget line. Therefore, the funds cannot be moved from one side to the other.

**Senator Carney:** Honourable senators, I appreciate the answer, but I would like to point out that there is no line item for rebuilding burned docks because the government is a self-insurer. The government insures its own property, so when a government property burns down, it is replaced. It is not a line item in the budget. Believe me, as the former President of the Treasury Board, that was the first thing I looked at.

## NATURAL RESOURCES

SOFTWOOD LUMBER DISPUTE ECONOMIC  
ADJUSTMENT INITIATIVE

**Hon. Pat Carney:** On this whole issue of the inability of British Columbia to somehow get government funding, I would draw the Leader of the Government's attention to the Softwood Lumber Dispute Economic Adjustment Initiative, which is about \$110 million, \$55 million of which is due for B.C. Honourable senators should know that the pronunciation of this program's acronym, SICEAI, is "sicky," and it well describes this program.

So far, of the \$50 million, only \$5 million has been spent to hire 60 bureaucrats. We got \$5 million to hire 60 bureaucrats, although there are lots of bureaucrats in place. Communities that are the hardest hit, up and down the coast, have had their projects denied. Tahsis put in a modest \$200,000 request, which they matched in an area which is economically destitute, to build a trail for eco-terrorism to make 25 jobs and generate \$600,000 worth of tourism in the area. It was turned down. Waddington had 54 applications, of which only two were actually approved.

These are small items to the Senate of Canada, but they are huge items to forest communities that are facing and have faced economic disaster with the loss of the softwood lumber jobs. It is hard to explain to them why the government cannot get government money to the communities affected but they can hire 60 bureaucrats.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I know Senator Carney's expertise with respect to issues on the British Columbia coast, and I will look into the question in the hope of providing a response soon.

• (1430)

## CITIZENSHIP AND IMMIGRATION

### REFUGEE CLAIM BY MR. ERNST ZUNDEL— NATIONAL SECURITY CERTIFICATE

**Hon. David Tkachuk:** Honourable senators, it has now been over a year since Holocaust denier and hate-monger Ernst Zundel was deported to Canada from the United States. When Mr. Zundel was initially returned here last February, Denis Coderre, the former Minister of Citizenship and Immigration, led Canadians to believe that he would be quickly removed. More than a year later, we have a new immigration minister, yet Mr. Zundel is still here, making a bit of a mockery of our refugee system at considerable expense to the taxpayer.

How much longer does the Leader of the Government in the Senate believe that Mr. Zundel will be here? What exactly has been the expense of his stay so far to taxpayers?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I do not have an answer for either of Senator Tkachuk's questions.

**Senator Tkachuk:** I am not sure what that response means. Usually, the Leader of the Government offers to obtain the answer to the question, which I hope he will do.

I will ask a supplementary question.

**Senator Di Nino:** He will probably say no to that one, too.

**Senator Tkachuk:** Three months after Mr. Zundel was returned to Canada, the federal government issued a national security certificate against him, which was intended to speed up the removal process. Shortly after the Martin government took over last December, the discretionary power to remove an individual

under such a certificate shifted from the Minister of Citizenship and Immigration and the Solicitor General to the new Minister of Public Safety and Emergency Preparedness, Anne McLellan.

Could the Leader of the Government in the Senate tell us the rationale behind changing who has the power to issue national security certificates? Will the move to place national security certificates solely under the Minister of Public Safety and Emergency Preparedness have any bearing on this particular case?

**Senator Austin:** Honourable senators, I certainly will look into the matter and hope to provide an answer. If I did not say that in answer to the previous question of Senator Tkachuk, I will make it explicit now.

With respect to the supplementary question, let me point out that the public safety minister is also the Solicitor General for Canada. Therefore, no authority has been moved. The office of the Solicitor General is now within the public safety responsibility of Minister McLellan.

**Senator Tkachuk:** I may have gotten this wrong, but the minister thinks that there is no such thing any more as the Solicitor General, simply the Minister of Public Safety. Under what act has this all been changed?

**Senator Austin:** My information is that it has been done under the administration act.

## AGRICULTURE AND AGRI-FOOD

### CONSUMER BEEF PRICES

**Hon. Gerry St. Germain:** Honourable senators, my question is for the Leader of the Government in the Senate and concerns complaints that beef prices in this country's supermarkets have not been reflecting what cattle producers are getting for their cattle at the farm gate.

The last time this question was posed to the Leader of the Government in the Senate was on February 18, 2004. The response then was that it is the government's view "that the entire supply chain is affected by the volumes going through it. As the volumes decline, the unit cost rises." The Leader of the Government then pronounced that the answer was not sufficient for him and that he would continue making inquiries about this issue. What is the state of his additional inquiries on this matter, if any? Does he have anything new to report to the Senate?

**Hon. Jack Austin (Leader of the Government):** I thank the Honourable Senator St. Germain for his question.

The response to the issue is encapsulated in the work now before the Standing Committee on Agriculture and Agri-Food in the other place, which has before it as an order of reference the study of the pricing of beef at the slaughter, wholesale and retail levels in the context of the BSE crisis in Canada. A great deal of information is now being provided to that committee. This is an excellent way of proceeding to answer the questions previously asked and asked today by the Honourable Senator St. Germain.



**Senator St. Germain:** Obviously, honourable senators, the honourable minister does not have any further information at this time to impart to us other than what is happening in the other place. I sit on the Standing Senate Committee on Agriculture and Forestry, and we are going through a similar process at the present time.

For the benefit of the public, which is really concerned about this matter, does the minister have any information at this time, because there have been various studies in Prince Edward Island, Ontario and Alberta? Those provinces have all undertaken to try to figure out just what transpired.

To be totally fair, I do not know whether the funding provided was put in at the right level. Senator Gustafson, Senator Mercer and others are hearing that this is really a political issue. If we do not get the border open to the United States, the results will be drastic.

This situation was described as a wreck. His Honour is knowledgeable about the cattle industry, as well.

I am wondering, sir, whether your leadership should not direct that some of us who have reasonably good relationships with the American government of the day should not be trying to utilize those good relationships. Some of us have long-standing relationships with Lee Atwater and Frank Fahrenkopf, who chaired the Republican committee with which I worked as President of the PC Party. We should be taking advantage of contacts. I would like to hear the comment of the government leader in that regard.

**Senator Austin:** Honourable senators, I did not complete the answer to the honourable senator's question. I was too succinct. I should have referred to the excellent work that is now before the Standing Senate Committee Agriculture and Forestry, which is also studying this particular issue. I could also refer to the work being done by the Government of the Province of Alberta, which Premier Klein has announced.

The answers are not obvious or evident with respect to what is happening in the supply chain and whether anyone is receiving an inordinate benefit from the way in which the supply chain is now operating.

I agree entirely with the honourable senator that it is to the advantage of Canadians to have Canadian parliamentarians speaking with their opposite numbers in the Senate and the House of Representatives of the United States. I would be glad to see what we can do, even in the short run, to facilitate that suggestion.

## NATIONAL DEFENCE

### INCIDENT INVOLVING AURORA AIRCRAFT— SCHEDULE OF INCREMENTAL MODERNIZATION

**Hon. J. Michael Forrestall:** Honourable senators, I have two relatively brief questions for the Leader of the Government in the Senate, who will be familiar with the subject matter. I have asked about it before.

On January 29, 10 instructors and seven flight students aboard a CP-140 Aurora very nearly had to ditch in the Atlantic off Nova Scotia. The aircraft, which is designed for anti-submarine activity, developed propeller problems about 80 kilometres northeast of Sable Island. The pilot sent out a mayday, and the crew donned immersion suits and took other necessary emergency precautions. It appears from early reports that the propeller started over-revving and consequently shook the plane violently.

Can the Leader of the Government tell us anything about the cause of this incident and any flight restrictions that might now be in place with respect to the Aurora fleet?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I will inquire as to the answer to the question and try to bring further information to Senator Forrestall.

**Senator Forrestall:** Would the Leader of the Government be so kind, while he is doing that, to seek out the answer to a couple of brief questions? Many people are quite concerned about why the incremental modernization project of the Aurora is so far behind schedule. The Canadian Marconi navigation system, for example, is 16 months behind. The Thales communications management system is eight months behind. The General Dynamics of Canada data management system is currently four months behind schedule and expected to slide to a full year. It is not expected to be ready for production readiness review until the year 2008. This means, of course, that we will not see the system in question until 2010-11.

• (1440)

Why was General Dynamics Canada, which is based in the Minister of National Defence's riding, awarded the de facto lead for systems integration of this project when its data management system will not even face a production readiness review before 2008, at which time the mid-life activity will be sadly strained?

**Senator Austin:** Honourable senators, I have no information to supply at this moment. However, the question is an important one, and I will diligently look for additional information.

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, I have the honour to present a delayed answer to an oral question raised in the Senate by the Honourable Senator Donald H. Oliver on February 3, 2004, regarding the Ethics Counsellor, salary and annual performance bonus and an answer to a question raised by the Honourable Senator Marjorie LeBreton on February 5, 2004, regarding the Prime Minister's attendance at a 1996 meeting with CSL president Sam Hayes on a contract with Jawa Power.

## PRIME MINISTER'S OFFICE

ETHICS COUNSELLOR—  
SALARY AND ANNUAL PERFORMANCE BONUS

*(Response to question raised by Hon. Donald H. Oliver on February 3, 2004)*

- It was determined that it was not appropriate for the Ethics Counsellor to receive any performance pay (pay at risk) because of the nature of the position.
- The Ethics Counsellor receives an annual lump sum payment of 7.5 per cent of his salary, not linked to his performance. This makes his total compensation equivalent to that of other public servants at the same level.
- Other individuals, such as the Commissioner of the RCMP, who are also ineligible for performance pay are treated the same way.
- Criteria to determine eligibility for performance pay include the mandate of the organization, the function of the position and the need for independence.

## PRIME MINISTER

MEETINGS WITH ETHICS COUNSELLOR  
ON BLIND TRUST

*(Response to question raised by Hon. Marjory LeBreton on February 5, 2004)*

- On appointment to Cabinet on November 4, 1993, it was necessary for Mr. Martin to arrange his private interests to comply with the provisions of the Conflict of Interest and Post-Employment Code for Public Office Holders which existed in 1993.
- At that time, because of his ownership of the CSL Group Inc, which had wholly owned subsidiaries having dealings with the federal government, it was necessary for Mr. Martin to place his entire interest in the CSL Group into a blind management agreement (called a Supervisory Agreement). This was done on February 1, 1994. The Code required that this arrangement be publicly declared.
- The Agreement allowed that, if it appeared that an extraordinary corporate event was proposed or threatened which might have a material effect on the Shares or the Assets being administered within the Agreement, the supervisors (trustees) may, with the approval of the Ethics Counsellor, consult with and obtain the advice of the public office holder. If the Ethics Counsellor agreed to a meeting, this could only take place in the presence of the Ethics Counsellor.
- It was reported in the media a year ago that Mr. Martin met with the trustee and CSL officials, in the presence of the Ethics Counsellor, to discuss a possible contract with Java Power. This meeting took place in late 1995. The proposed contract to deliver coal to the power plant involved the purchase of three new 45,000 tonne vessels

and, in the view of the Ethics Counsellor, constituted an extraordinary corporate event which might have a material effect upon the shares and assets entrusted.

PAGES EXCHANGE PROGRAM  
WITH HOUSE OF COMMONS

**The Hon. the Speaker:** Before going to Orders of the Day, I would like to introduce some guest pages from the other place.

Nardia Tonge of North Vancouver, British Columbia, is studying in the Faculty of International Business at Carleton University.

[Translation]

Michael Ouellet of Timmins, Ontario, is studying in the Faculty of Social Sciences at the University of Ottawa. He is majoring in political science.

**Hon. Senators:** Hear, hear!

**The Hon. the Speaker:** I welcome them to the Senate on behalf of all the honourable senators, and hope that they will find their time with us interesting and informative.

[English]

## ORDERS OF THE DAY

## REPRESENTATION ORDER 2003 BILL

## THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Smith, P.C., seconded by the Honourable Senator Lapointe, for the third reading of Bill C-5, respecting the effective date of the representation order of 2003.

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, once again we are being called on to deal with a bill that has but one purpose, and that is to provide Liberal Party backroom strategists an advantage for which they have been clamouring for a year, namely, that the effective date of the new electoral map be to their liking and only for this time and this time only.

I say "once again" partly because this bill died on the Order Paper in the fall but also because many here will remember that in 1994 and 1995, the government, again, solely because of the dissatisfaction of its election strategists, introduced two bills this time to delay redistribution beyond the 1997 election, thinking it more advantageous to the Liberal party to have an election in ridings based on the 1981 census rather than on the one completed in 1991.



The Senate was able to defeat that self-serving effort then, and while it is obvious from the way Bill C-5 is being given the highest of priorities, even to subjecting it to time allocation at second reading so that its passage is assured, I would like to think that there are quite a few who will be supporting it more out of loyalty than out of persuasion.

On March 10, 1964, then Minister of Transport Jack Pickersgill, who sponsored the original Electoral Boundaries Redistribution Act, spoke at length on the proposed bill, and I would like to read into the record remarks of Mr. Pickersgill made on that day, as reported at page 743 of the *House of Commons Debates*. This is how he saw the bill and how he felt it should be treated by Parliament:

This bill, as I indicated when I spoke last session, is designed really to be a part of the Canadian constitution. It lays down a procedure which will not apply just to this redistribution but which will come into force almost automatically after the census has been taken and the census results are known. In this way, the time of parliament will not have to be taken up with the matter unless we find some faults in the operation of the scheme that require legislative correction.

Honourable senators, I ask you this: What are the faults in the legislative scheme that Bill C-5 is intended to repair? The answer is, quite simply, that Bill C-5 repairs no fault.

While the government refuses to admit in so many words what motivates Bill C-5, the motivation is readily apparent because it reduces the one-year delay contained in the existing law for this one occasion and only for the next election. The Lortie commission in 1991 recommended a shorter delay. In addition, as the Chief Electoral Officer reminded us when he appeared before the committee, and I quote:

Under Bill C-69, which was reviewed by both Houses in 1995 but died on the Order Paper, the implementation period would have been seven months.

He added:

...this proposed legislative change was not contentious or opposed by any of the parties in Parliament.

In his remarks to the same committee on the same day, the Leader of the Government in the House of Commons said:

So why not a permanent fix? The reason is rather simple. We do not know at this point whether or what kind of a permanent reduction of the grace period is feasible.

Is it not a curious position for a minister of the Crown to take? However, he brought some clarity to this issue later on when he said:

You ask me a question of knowledge on something which preceded my entry into office. If it has an impact on my situation today, I should know it. If it does not, it is a different ball game.

The translation for all this: So much for Lortie, so much for the Chief Electoral Officer, so much for Parliament, only the Prime Minister determines the grace period and only when it suits his election timetable. A minister in a Liberal government does not need to know anything beyond that simple declaration.

While the government's obfuscations are understandable, what is not is the shameful attempt to make the Chief Electoral Officer responsible for this bill. In his prepared remarks to the Senate committee studying the bill, the Leader of the Government in the House of Commons rewrites history by tracing Bill C-5's origins to a letter dated July 15, 2003, by Mr. Kingsley to the Chairman of the Committee on Procedure and House Affairs in which the Chief Electoral Officer says that under certain conditions an election based on new electoral boundaries could take place any time after April 1, 2004. The impression left by the minister is that it all started with that letter.

That is a distorted version of the facts and is grossly unfair to Mr. Kingsley for he opens his letter by saying:

I am writing to you in light of recent media articles concerning the possibility of accelerating the implementation of the new electoral boundaries, effective April 1, 2004.

These media reports, as everyone is aware, were to the effect that then leadership candidate Paul Martin and his supporters, in attempts to curry favour with western Canadian voters and keen, at that time, anyway, for a spring election, were strong advocates for the new electoral boundaries to come into effect no later than April of this year. The Government House Leader made absolutely no reference to these public urgings, leaving the impression that the Chief Electoral Officer, in the minister's own words, "prompted this legislation."

In his opening remarks to the committee, Mr. Kingsley said:

Last summer...reducing the implementation period became a matter of public interest and discussion as reflected in media reports.

He added:

In essence I had the choice of waiting for the government to table a bill or to consult me in accordance with subsection 15(4) of the Canada Elections Act, or to seize Parliament with the matter and make it public. I decided that the best course of action was the latter.

Now, I do not believe it wise for an officer of Parliament to respond publicly, favourably or not, to a political party's media exhortations. I would have preferred that Elections Canada's comments had followed the tabling of a bill resulting from consultation with its officials rather than one arising from a reading of newspapers.

I will not return to this matter. I accept Mr. Kingsley's explanation for writing as he did. I only wish that he had waited for a government initiative before putting his views on the record, particularly on an issue that was clearly not rooted in policy.

Of course, none of this misunderstanding, not even the bill, would have arisen were members of Parliament elected to fixed terms. Whenever the subject comes up, traditionalists react in horror, asserting that the parliamentary system does not lend itself to fixed terms because they do not provide for a government defeat resulting from a confidence vote. I am one who does not accept that confidence votes have a place in today's democratic society, particularly as under the majority Chrétien government they were used primarily to keep its wavering supporters in line.

• (1450)

More to the point, what is there that is so sacred about a government budget or a government spending bill being defeated? Is not the answer simply that the government returns to the House with the appropriate amendments? A confidence vote was never intended to be a challenge to those opposed to government intentions to risk an election in case it did not carry. It is unacceptable that what traditionally was one of the few procedural advantages given to the opposition has now been turned into a weapon to keep wavering supporters in line.

The smugly — at the time — confident Martin Liberals are today in a state of near complete disarray.

**Senator Forrestall:** Say that again.

**Senator Lynch-Staunton:** So intent were they on removing a leader by the crudest of methods, they gave no thought to any post-takeover strategy, the lust for power blinding them to everything but their own excessive ambition, which had to be achieved in any manner available, including publicly humiliating a Prime Minister responsible for three election victories and for the careers of many of those who turned against him so viciously.

**Some Hon. Senators:** Shame!

**Senator Lynch-Staunton:** There is nothing more repugnant in politics than for party members to go after a party leader publicly with no holds barred, not for the sake of the party but strictly for personal ambition. It may make for fascinating theatre for outsiders, but for the party it is divisive, disruptive and serves to increase cynicism of the political process at a time when cynicism is already too high.

**Senator Tkachuk:** You would not catch us doing that.

**Senator Lynch-Staunton:** Not to a Prime Minister.

There are now reports that the Prime Minister is reconsidering last year's scenario so that Bill C-5 may not be needed after all. How ironic if this turned out to be true. Even more, it emphasizes how essential it is to remove from one person the exclusive right

to fix an election date thought most advantageous to a favourable result. It may be smart politics but it is bad policy, which should have no place in a country that believes in level playing fields, no matter the area. It is also bad for those who are keen to commit to economic growth in the private sector but hesitate to do so as the "will he" or "will he not" teasing continues.

It is about time that those who decry what they call the democratic deficit stop paying lip service to their lamentations and get down to reducing it. What better way than to return to elected representatives, ministers included, responsibilities that have been taken over by the Prime Minister's Office to the point that to get anything done in Ottawa, sponsorships included, one goes to an unelected coterie in the PMO, which then gives instructions to the departments, no matter reviews of ministers.

While allowing one person complete discretion to fix an election date chosen strictly for partisan advantage, which to me is impossible to justify in today's society, is bad enough; to cajole Parliament to amend the Election Boundaries Readjustment Act makes it a party to the Prime Minister's election strategy. To me that is reprehensible and I hope that I am not alone in not wanting to be a part of it.

**Some Hon. Senators:** Hear, hear!

**Hon. Lowell Murray:** Honourable senators, I do congratulate Senator Lynch-Staunton on a very vigorous and pointed speech. As honourable senators know, I have always eschewed the kind of partisanship that has just been evinced by Senator Lynch-Staunton.

However, I do want to say that the government should take heed. By taking this rather extreme step of manipulating the electoral system, they have provoked an extreme reaction from Senator Lynch-Staunton, he believing that the remedy is fixed terms and other devices used in the United States. The next thing you know he will be in favour of a 3-E Senate.

I say that this is not a very edifying moment in the history of the Senate, or of this government or of the predecessor Chrétien government. We are about to pass a bill, or so it would appear, entitled "An Act respecting the effective date of the representation order of 2003." The bill would be more aptly entitled "An Act for the relief of the federal Liberal Party."

I will not repeat what I said at second reading and what Senator Lynch-Staunton said at second and third reading about the manipulation of the process beyond saying, as unfortunately I have had occasion to say two or three times in the past 10 years, that we in this place, as the only body that is disinterested — in the proper sense of that term — ought to provide a line of defence for the electors and for the country against this kind of manipulation.



The Standing Senate Committee on Legal and Constitutional Affairs, to which this bill was referred, held one meeting on it, at which they heard from the responsible minister, Mr. Saada, and from the director of Elections Canada, Mr. Kingsley. I was able to attend about half of that meeting and had to leave, unfortunately, because there was a meeting of another committee that I chair. However, I did obtain the transcript and have read it quite carefully.

Senator Lynch-Staunton referred to the letter that Mr. Kingsley had sent, under the circumstances he described, to the chairs of one of the House of Commons committees and one of our own committees last July 15 to inform them that Elections Canada would be able to be ready for a writ by April 1, 2004. It needs to be said even at this late date, at third reading, that Mr. Kingsley said that "the feasibility of doing so," that is of implementing the scenario by April 1, "would be dependent upon certain conditions being met." Then he says:

A very important condition concerns the timely appointment of returning officers for the 308 electoral districts. Every electoral district that has boundary changes will require an appointment. In order to implement the new boundaries by April 1, 2004, the appointment of the returning officers needs to be completed by mid-September 2003.

That is quite an unequivocal statement. That is the first condition that he poses as a necessary precondition to being ready with the 308 riding boundaries for a writ as of April 1.

Honourable senators, that condition was not met. Senator Lynch-Staunton, at the committee, pointed out that as of mid-September there had been exactly nine returning officers appointed out of 308. When he taxed Mr. Kingsley with this question, Mr. Kingsley's response was, "Oh, well, we were able to step up the training process." Good for him, but there was more to it than the training process.

Honourable senators can read the letter because it was distributed to all senators. There was a lot of what he referred to as feedback that would be required from the returning officers about the polling districts and so on and so forth. In any case, the condition he set was quite unequivocal. The 308 returning officers were not appointed by mid-September. Nine were appointed. It is no answer to simply say, "Oh, well, I was able to step up the training process." Either that statement meant something in mid-July or it did not.

I was rather troubled by this and I asked the minister, Mr. Saada, about this. I said, "How many returning officers had been appointed by mid-September?" He said, "As of now there are only 15 or so to be appointed." I said, "No, minister, tell us about mid-September." He replied, I do not know because I was not the minister then." However, he is the minister now and he has carriage of this bill. He is bringing in a bill to bring forward

the new boundaries as of April 1 on the conditions that Mr. Kingsley set, and he did not know whether that first condition was met. The whole business is rather shoddy, as I have suggested. Parliament and Canada have been left in a rather dubious and, perhaps, quite dangerous condition. If they are not ready in several ridings then we will have a big problem in an election. It does affect people's rights to vote.

• (1500)

I wish to raise another matter that was mentioned at second reading debate and again at committee in respect of equality of voting power — the premise that one vote in one riding should be worth as much as one vote in the next riding. It has been pointed out here and in committee that in the country we have never allowed ourselves to be governed strictly by the rule of equality of voting power. We have never drawn the boundaries strictly according to that rule. Judicial decisions were quoted to this effect. In this country, "effective representation" is important and takes in a number of other considerations. I wish to clarify that and I have a reason for doing so. I would not want anyone to leave the impression that equality of voting power on the one hand and effective representation on the other hand are alternatives. Equality of voting power is a factor of effective representation. Chief Justice McLachlin has been quoted in the house and elsewhere on this subject, in particular from a judgment of the Supreme Court of Canada of 1991, the *Attorney General of Saskatchewan v. Roger Carter, Q.C.*, respondent. Chief Justice McLachlin said:

It is my conclusion that the purpose of the right to vote enshrined in s. 3 of the Charter is not equality of voting power per se but the right to "effective representation".

Then, in the same context, she adds:

What are the conditions of effective representation? The first is relative parity of voting power. A system which dilutes one citizen's vote unduly as compared with another citizen's vote runs the risk of providing inadequate representation to the citizen whose vote is diluted.

...

Factors like geography, community history, community interests and minority representation may need to be taken into account to ensure that our legislative assemblies effectively represent the diversity of our social mosaic. These are but examples of considerations which may justify departure from absolute voter parity in the pursuit of more effective representation; the list is not closed.

...

It emerges therefore that deviations from absolute voter parity may be justified on the grounds of practical impossibility or the provision of more effective representation. Beyond this, dilution of one citizen's vote as compared with another's should not be countenanced.

As a layman, I derived from that statement that the rule is parity and the exceptions are to take account of community interests, history, geography and so forth. I put that on the record now to repeat a contention that I have placed on the record previously: The 25 per cent tolerance that is allowed in the current law is altogether too extravagant. You do not need to have a 25 per cent tolerance from the provincial quotient except, perhaps, in far-off northern ridings, such as Northern Labrador and others. That tolerance should be brought down to about 10 per cent. I hope that those members in the House of Commons who have announced that they will undertake a study of election law will look at this issue seriously.

I congratulate the commissions that did the most recent redistribution because in almost all cases, except for the ones that I have alluded to, they have kept the tolerance below 10 per cent and in many cases even below 5 per cent. As a result of the work of those commissions, in almost every province we have much closer to voter parity — to equality of voting power — between one citizen and another citizen than we had in previous redistributions. I take considerable satisfaction in that but remember: after the next census, new commissions will be appointed and they can avail themselves of the 25 per cent tolerance if they wish to do so.

I would not like to see that happen. The most recent commission brought the tolerance to below 10 per cent, and below 5 per cent in many cases, without any serious compromise of history, community interests, geography and so on. I would hope that that law could be changed to bring it down to at least 10 per cent so that the extravagant tolerance would not be available to future commissions. These are important issues for the Senate, as I have suggested on another occasion. There is too much actual and potential conflict of interest in these matters among those who have to be elected. The Senate should take these issues on as a special interest and responsibility.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** It was moved by the Honourable Senator Smith, seconded by the Honourable Senator Poulin, that this bill be read a third time. Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

**The Hon. the Speaker:** Would those honourable senators in favour of the motion please say “yea?”

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Would those honourable senators opposed to the motion please say “nay?”

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** I believe the “yeas” have it.

**Some Hon. Senators:** On division.

Motion agreed to and bill read third time and passed, on division.

[Translation]

## ASSISTED HUMAN REPRODUCTION BILL

### THIRD READING—DEBATE ADJOURNED

**Hon. Yves Morin** moved the third reading of Bill C-6 respecting assisted human reproduction and related research.

He said: Honourable senators, I have the honour to present to you at third reading Bill C-6 on assisted human reproduction.

[English]

It comes as no surprise to honourable senators when I say that Bill C-6 is complex, controversial and emotionally charged. This was reinforced by the testimony of more than 50 witnesses who appeared before the Standing Senate Committee on Social Affairs, Science and Technology to express well-prepared, thoughtful, but often divergent, views on the bill. Dr. Robin Walker, President-elect of the Canadian Paediatric Society, told committee members that this bill is absolutely necessary to protect the health and well-being of children born through these services. He said: “We have good evidence that certain types of assisted human reproduction are associated with increased risks of birth defects to newborns.”

Ms. Madeleine Boscoe, Executive Director of the Canadian Women's Health Network, was of the same opinion. She said: “This is a good and, in many ways, visionary piece of legislation that is long-awaited, urgently required and a critical turning point for the health of Canadian women.”

We also heard from Ms. Irene —

• (1510)

**The Hon. the Speaker:** I am sorry to interrupt the Honourable Senator Morin, but it is quite noisy in the chamber. I would ask honourable senators to please conduct their conversations outside of the chamber. That would make it much easier for us to hear Senator Morin.

**Senator Morin:** Honourable senators, we also heard from Ms. Irene Ryll, Coordinator of the Infertility Connection of Edmonton. She is a registered nurse and the mother of three young children conceived through assisted reproductive technology. In her view, it is urgent that this legislation be put in place. She told the committee:

Without this bill, we will continue to create families such as ours, where our children have been condemned to a lifetime of absent and incomplete health information.



Scientists such as the world-renowned stem cell researcher Dr. Ron Worton support the bill, as does Dr. Arthur Leader of the Society of Obstetricians and Gynecologists of Canada. According to Dr. Leader, Bill C-6 will "protect infertile women and their children from unsafe practices and give dignity to the professionals who are committed to alleviating the suffering of infertility."

I would like at this point to thank Dr. Leader, one of the outstanding fertility experts in Canada, for his help on this bill. He has been very generous with his time in helping other senators and myself with the technical aspects of this bill.

Finally, we heard from religious authorities. Representatives of the Jewish and Muslim faiths had reservations about the bill but urged the committee to approve it nonetheless. The Catholic Archbishop of Halifax, Monsignor Prendergast, reiterated the church's opposition to embryo research and, for that matter, to all assisted human reproduction. That being said, however, he recommended that senators consider the positive elements of the bill, which he saw as being its provisions to ensure the protection of the human embryo and to correct the current alarming absence of regulations concerning embryo research.

The committee has carefully listened to and weighed the testimony of all witnesses. What struck each of us most was the degree of consensus on such controversial legislation. More than two thirds of all witnesses recommended passage of the bill without amendment. Despite the reservations many of them had, they believed that legislation in this area is long overdue and should not be held up any further. This degree of support and consensus greatly impressed and influenced committee members in their deliberations.

Honourable senators, your committee views Bill C-6, the assisted human reproduction bill, as an important piece of legislation for the health and safety of infertile Canadians who seek assistance in building their families, as well as the children born as a result of these technologies. This is the reason why your committee, echoing the position of the witnesses who appeared before it, unanimously passed the bill without amendment. However, I would like to take the opportunity to make senators aware of several issues that ought to be addressed when regulations are being drafted and during the three-year review that is mandated in the bill.

First is the legislation's use of criminal prohibition. The committee heard from a number of witnesses that the government's use of its biggest regulatory hammer to enforce the provisions of the bill is excessive. Many witnesses felt that such instruments should be used only as a last resort, reserved for conduct that is culpable, seriously harmful and generally conceived of as deserving punishment.

After considering the evidence, the committee is satisfied that it is inappropriate to split the bill and that the use of criminal sanctions is acceptable in this initial piece of legislation. However, the committee notes that the considerable concern expressed over the use of criminal sanctions means that this issue should be addressed closely during the three-year review.

Second is the prohibition of nuclear transfer, also known as therapeutic cloning. Several scientists from the Canadian Stem Cell Network told us this is a promising technology that is permitted in other countries, such as the U.K. The committee believes that nuclear transfer is another issue that warrants a thorough study when this legislation is eligible for legislative review.

There was much, and often passionate, debate over a third issue, that of permissible compensation for donors. Several witnesses testified to the committee that the restrictions on compensation are excessive and will restrict the availability of donated gametes. The committee supports the non-commercialization provisions of the bill, but is nevertheless concerned about the effect that they will have on donations.

Finally, the committee recognizes and is sensitive to the issue of embryo research. This is one of the most controversial aspects of the bill, and there will never be unanimity on it. Many opponents of embryo research supported the bill, with its provisions allowing for embryo research, to put an end to the current unregulated environment for such research. In their view, if embryo research cannot be prohibited outright, at least the legislation limits what they see as the harms implicit in it.

Members of the committee decided that in the absence of any definition of the moral status of an embryo, we must defer to its definition in the legislation — that an embryo is a human organism. As such, research that involves embryos must be stringently regulated. The committee therefore concludes that there is a particular onus on the regulatory agency created by this legislation to provide exemplary oversight to all embryo research.

[Translation]

In conclusion, I would like to thank the witnesses for their contribution to the work of the committee, particularly the representatives of volunteer patient advocacy groups, some of whom were severely disabled.

As I have said, honourable senators, your committee recommends unanimously that you support this bill. I am sure all Canadians will benefit from it.

[English]

**The Hon. the Speaker:** Honourable senators, I will see Senator Roche, who wishes to speak to this bill. In the normal course, it would be spoken to next by a member from the opposition. This is important because of the 45-minute allocation.

Is it understood, honourable senators, that if I see Senator Roche now, the 45 minutes will be preserved for Senator Keon, who I believe will be the first speaker for the opposition?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Senator Roche, 15 minutes.

**Hon. Douglas Roche:** Honourable senators, I should like to point out that if Senator Keon wishes to speak now, I would gladly yield to him. I do not want to pre-empt Senator Keon. However, if I get a signal that he wants me to speak, I will go ahead.

Honourable senators, grappling with Bill C-6 has been a great challenge for me, as I have sought to defend the interests of all Canadians, including those who are yet to be born. In fact, I must say that this has been the most difficult bill that I have faced in my years in the Senate.

Bill C-6 is a comprehensive bill that regulates assisted human reproduction practices and related research. It is also a very controversial bill that will have a profound impact on many segments of Canadian society, including infertile couples seeking children, the doctors and fertility practitioners who assist them in having these children, the children who are themselves born using these procedures, the scientists who conduct research on, and are using, embryos and Canadians who are committed to protecting the right to life of these human organisms.

The committee heard from many groups. While almost everyone believed that this bill could benefit from substantive amendments, most witnesses believed that passing the bill without amendment was preferable to postponing the legislation yet again by amending it and sending it back to the House of Commons to a likely death. I share this view.

• (1520)

There are many positive aspects to this legislation. The bill will provide urgently needed regulation for assisted human reproduction — known as AHR. AHR providers will be licensed and overseen by a regulatory agency. Practices such as commercial surrogacy and human cloning will be prohibited, whereas now the interests of the research and industry communities are given free reign. People born using AHR procedures will now have access to vital medical information on their biological parents to make possible the recognition and treatment of inherited diseases.

The AHR agency can facilitate improvements in the fertility industry by identifying and addressing risks to couples and children and ensuring that best practices are recognized and duplicated. These are all important contributions to improving the lives of those directly affected by AHR practices, and I support them.

Honourable senators, despite these positive elements of the legislation, I am at the same time deeply troubled by this bill. The focus of my concern is the lack of protection given to the embryo. The bill allows for the creation of embryos for the specific purpose of research to improve fertility procedures. It also allows for research on embryonic stem cells. This research necessarily involves the death of the embryo and, as such, the bill explicitly permits the destruction of this human organism. This is a very grave matter.

The controversy over embryonic research centres on beliefs about when life begins and what constitutes a human person possessing rights worth defending. I want to make my view clear.

Human life as we know it begins with conception, and every life so created is as worthy of protection as is the life of you and me. Indeed, the embryo is necessary for human life to develop. Even this bill recognizes that the embryo is a human organism. The bill should have stipulated the right of the embryo to continue development. The embryo should be fully protected under Canadian law.

Honourable senators, I can only hope that eventually the practice of conducting research on and discarding the embryo will come to an end. Countries such as Germany, Austria and Ireland have already prohibited research involving human embryos. However, in Canada, this is simply not possible in the current federal political environment, although there is nothing in this bill to prevent a province from adopting more stringent guidelines, including the prohibition of embryonic research within its jurisdiction, and Quebec once tried to do this.

Those who defend the dignity of the embryo have spared no effort in fighting to strengthen the limitations on embryonic research offered in the legislation. Many people, myself among them, propose that the bill be split so that the less controversial provisions banning human cloning and regulating AHR could go ahead without approving embryonic stem cell research. Their efforts were rejected by the government. When the Minister of Health appeared before the committee, I asked him if he would accept an amendment to the bill to ban such research. His answer was an unequivocal no.

The long legislative history of this bill is indicative of what would happen if the Senate insisted on an amendment. The bill would return to the House of Commons where it would likely remain until an election is called later this year. While the bill could be reintroduced in the next Parliament, it is unlikely that significant improvements would be made before it found itself once again before the Senate.

In deciding whether or not to support the bill, I had to weigh the alternative of no bill against that of passing this bill. Currently, we have a legislative void.

Suzanne Scorsone, a former commissioner on the Royal Commission on New Reproductive Technologies and an opponent of embryonic research, summed it up well in her testimony before the committee: She said:

We have an existing law now, and that is that there is no law. Under the Canadian system of law...that which is not prohibited is permitted. He who is silent gives consent... Anything we do now will, in my view, enable good practice and prevent harm so far as it goes. It may not go far enough, but at least it will be something....



If we choose not to take the incomplete but constructive steps realistically available to us, we choose to take responsibility for the consequences of not having taken them.

Honourable senators, I want to take that last sentence from Dr. Scorsone and make it my own. If we do not choose to take the incomplete but constructive steps realistically available to us, we choose to take responsibility for the consequences of not having taken them. I think that is a very important point that we should dwell on.

There is currently no limitation regarding research on or the use of the embryo in Canada. However, Bill C-6 will limit research to the improvement of fertility practices and stem cell research. Research on embryos that have developed past 14 days will be prohibited. Embryonic stem cell research will be done only when necessary and will require the prior consent of gamete donors. Unlike in the United States, where public funding for stem cell research is banned but private research is unregulated, Canadian regulations will apply to both the public and private domains.

While I would prefer a prohibition on all embryonic research, these provisions of the bill do represent distinct and significant improvements over the current legislative vacuum. The committee has attached observations to the bill to offer advice and suggestions on enhancing the legislation without risking its defeat by insisting on an amendment. In the formulation of these observations, I proposed, and the committee endorsed, the creation of a permanent embryo research advisory panel under the provisions of clause 33 that would include in its membership representation from the faith communities to ensure that their views are taken into account as this research goes forward. The advisory panel would oversee and advise the agency on all aspects of embryonic research, and its reports would be made public, allowing for informed input from Canadians on this controversial issue. The panel would help ensure that the agency adheres to the committee's call for — and I quote from the observations — “exemplary oversight to all embryo research,” certifying that “research that involves embryos” is “dealt with in a stringently regulated manner.”

This continual observation should include holding the agency to strict standards for defining when or whether embryonic research is deemed necessary. If research using adult stem cells shows significant progress, it may be that embryonic research will eventually become superfluous. I call upon the government to ensure that this advisory panel is struck.

• (1530)

The committee also used the observations to call for strict adherence to conflict of interest guidelines to ensure that no agency board member has a financial interest in the agency's work. Since AHR regulations will have a disproportionate impact on women, the committee has observed that the board should be composed of at least 50 per cent women. I strongly support both

of these necessary improvements to the bill, improvements that can be made without resorting to a formal amendment.

Finally, honourable senators, the committee noted several areas in which the effects of the bill must be carefully monitored in preparation for a comprehensive review of the legislation in three years. One such area is donor anonymity, under which the identity of gamete donors remains confidential, preventing donor offspring from knowing their biological parents. Another area is the need to better understand the impact of surrogacy on the physical and emotional well-being of the child, his or her family and the surrogate mother. The committee intends to re-examine these issues when the bill is reviewed.

I hope that all our observations are taken very seriously by the government and the Department of Health as they design the regulations that will substantiate the goals of this bill.

Honourable senators, with Bill C-6, as has been the case with many other pieces of legislation, we are confronted with a difficult choice. Do we approve this bill as it is, or do we reject it in the hope that improvements can be made and passed, ensuring that the legislative void is filled? In this case, it is my judgment that, in the political circumstances that we are now in, the prospects for an improved bill are dim, while the risks of continuing in the absence of any regulation of AHR or regulated research are unacceptable.

Unregulated embryonic research has been going on in Canada since 1987. The Canadian Institute for Health Research has repeatedly stated its intention to move ahead with embryonic stem cell research if Parliament does not succeed in passing legislation. This bill will provide limits on how embryonic research is conducted. Furthermore, it will provide a regulatory framework for AHR, ensuring the best interests of children and parents are respected and leaving open the possibility that embryonic research can be further restricted in the future.

Honourable senators, let there be no mistaking my unflinching support for the right to life of the embryo. In considering this bill, I have had to ask myself how I could best further the interests of Canadians, including human embryos. I was guided in this respect by the testimony of Suzanne Scorsone, who noted:

...it is possible to be so desirous of the perfect...to the point that we cannot even bring about the good. What would we then accomplish other than our own purity of intent?

Archbishop Terrence Prendergast, on behalf the Canadian Conference of Catholic Bishops, also picked up on this argument when he stated before the committee:

...de facto, we have a legislative circumstance that is not protective of an embryo. Therefore, anything that a senator can do to protect an embryo, protect life from its origins, is potentially the best...they can do.

For these reasons, honourable senators, I have decided to support the passage of this bill without amendment, while using every opportunity available to me to enhance protection for embryos through the committee observations. I hope that the Senate will further these efforts and take seriously its role as a chamber of review when the government tables the regulations before the Senate committee and when the legislation is reviewed in three years' time.

On motion of Senator Keon, debate adjourned.

## PUBLIC SAFETY BILL 2002

### SECOND READING—DEBATE SUSPENDED

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Christensen, for the second reading of Bill C-7, to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety.

**Hon. Lowell Murray:** Honourable senators, I am not a member of the committee to which this bill will likely be sent if it receives second reading.

**Senator Kinsella:** Which committee is that?

**Senator Murray:** I understood it is the Standing Senate Committee on Transport and Communications, but my honourable friend may have more recent and better knowledge. In any case, unless it is referred to the Standing Senate Committee on National Finance or the Standing Committee on Rules, Procedures and the Rights of Parliament, I am not a member of the committee to which the bill would be referred. It is unlikely that I will be able to attend meetings if they conflict with meetings of other committees of which I am a member. Therefore, I would like to say a few words on an issue that I hope may be canvassed by the committee, assuming the bill is referred there.

I want to speak about the need for oversight. I think it needs to be said that, in our system of government, oversight of the police and security services begins with a minister of the Crown. She may often be Parliament's first line of defence when it comes to protecting civil liberties against incursions by the police or security agencies.

In this respect, we should take note of the fact that when the RCMP obtained a search warrant and descended, a posse of more than 10 of them, on the home and office of journalist Juliet O'Neill, trying to identify the source of an alleged leak of security information related to Mr. Maher Arar, there was no prior advice or consultation with the responsible cabinet minister.

The minister, the Honourable Anne McLellan, seems to find nothing untoward in this. She was quoted in media reports to the effect that she had no prior knowledge of the police raid. "I didn't," she said, "and it wouldn't have been appropriate in my opinion for me to know."

Honourable senators, consider the circumstances of this raid. The Maher Arar case, once it became public knowledge, was a serious political and parliamentary controversy. It involved ministers and officials of at least three foreign governments. The Prime Minister of Canada was engaged. So were several other ministers, including the Minister of Foreign Affairs and his U.S. counterpart, the Secretary of State. It was a national security issue. If an offence was committed, it was under the Security of Information Act, once known as the Official Secrets Act.

With that background, is it not ludicrous to portray the raid as a routine police action undertaken in the course of an ordinary criminal investigation?

I believe a good argument could be made that Ms. McLellan should have been advised and consulted. The minister is not a cipher. She is not a figurehead. Her relationship to the RCMP, on the one hand, and to Parliament, on the other, is not analogous to that of a minister who "reports to Parliament" on behalf of an autonomous agency or Crown corporation such as the CBC.

The minister, in this case Ms. McLellan, is invested with real authority. With that authority goes real responsibility — responsibility to Parliament. Nobody expects the minister to micromanage the police, and we would all be shocked to learn that a minister had exercised improper political interference with the police or security services. However, there is a difference between micromanagement or political interference on the one hand and the exercise of proper ministerial authority and responsibility on the other. Reasonable, experienced people in Parliament, in the cabinet, in the bureaucracy and in the police are quite able to discern the difference in any given set of circumstances. Responsible ministers must not be allowed and should not seek the luxury of what is called "plausible deniability." Plausible deniability is the antithesis of ministerial authority, ministerial responsibility and ministerial accountability.

We should ask ourselves and, if the opportunity arises, ask the minister, whether there are guidelines as to the circumstances in which the police and security services are expected to advise and consult with the responsible minister. Absent such guidelines, the police are on their own. They will run rings around her, as they have done with several of her predecessors.

Parliamentarians struggling with the questions of balance between security and civil rights need to be reassured that there is real political, ministerial oversight of the police and security agencies. If we cannot depend on the minister, who can we depend on?

• (1540)

This brings me back to December 2001, when Parliament approved Bill C-36, the Anti-terrorism Act. That bill gave extraordinary new powers to the police, security services and to federal cabinet ministers. The bill that is before us today, Bill C-7, is the son of Bill C-36. It gives still more power to the police security services and to ministers and their officials.



The bill that is before us now will amend 23 other pieces of legislation, just as Bill C-36 had amended 20 other pieces of legislation. Various ministers under this bill would be given discretionary power to issue interim orders without consulting Parliament under eight different acts. The Minister of Citizenship and Immigration, for example, would be authorized, with cabinet approval, to enter into "agreements" with foreign governments with regard to "the collection, use and disclosure of information." It also adds a provision permitting the minister to enter into "arrangements" to do exactly the same things. The difference between agreements and arrangements is that arrangements do not even need cabinet approval. She can or he can go and do them on her own or his own. Government agencies will be able to trawl through the personal information of Canadians and share the information with others, including foreign governments, not just for reasons of national security and defence, but also for the conduct of international relations. The discretion granted to government officials by the wording of such provisions is almost unlimited.

On Thursday, February 26, we heard in this debate a powerful and powerfully moving speech by Senator Jaffer. After hearing her, I went back to the speech she delivered in this chamber on December 13, 2001, in the debate on third reading of Bill C-36. Then, as now, Senator Jaffer lent her strong support to government measures that would be effective against terrorism. Then, as now, she expressed her concern about the possibility of racial profiling. In her speech on Bill C-36, she quoted assurances in this matter that had been given in committee by RCMP Commissioner Zaccardelli, by CISIS Director Ward Elcock and by the then Solicitor General Lawrence MacAulay. She quoted the then finance minister's commitment to increased funding for programs that would foster respect and promote our values as an antidote to intolerance and division in our communities.

The honourable senator is no less supportive now than she was then of the need and the duty of government and Parliament to try to ensure national security. However, as she said on February 26, "I must say that I have seen the results of Bill C-36 firsthand." She related what she has been told by people, including her own husband, who have been dealt with unfairly and unjustly, made to feel like second class citizens, made to feel "less Canadian and as if they do not have a right to belong here." Then she added a comment that all of us should be ashamed to hear: "Honourable senators, if you walk in the shoes of people who look like me, the impacts of Bill C-36 have been chilling."

Senator Jaffer reminds us in her speech on this bill that Bill C-36 is due for review by the end of this year and that the inquiry into the Arar case has already been established. She recommends that at least some of the provisions of Bill C-7 should not be enacted until we have had the results of the Arar inquiry.

I suppose it might be possible to amend the bill to hold back proclamation of certain sections until a later date or pending a later resolution by Parliament; or, in the extreme, to delay the coming into force of the entire bill. These are matters the committee will want to consider.

Today, I want to impress upon the committee, and indeed upon all honourable senators, the need to take the occasion of this bill to revisit the question of parliamentary oversight of the exercise of the additional powers we have given and are being asked to give to the police and security services as well as to ministers of the Crown.

On October 17, 2001, when she was Minister of Justice, Ms. McLellan came to the special Senate committee that did a pre-study of Bill C-36. Speaking of the new powers being granted to ministers, she reminded us that "ultimate political accountability will lie with each of those ministers, including myself." We did engage her on the need for other oversight mechanisms and she seemed to understand our concern. We considered various alternatives: enlarging the mandates of the existing oversight agencies; creating a parliamentary committee to oversee the new powers granted in Bill C-36; and Senator Grafstein's proposal to create a parliamentary commissioner. However, at the end of the day, we were unable to persuade the government and its majority in the Senate of the need for additional oversight.

The government had argued repeatedly that the existing oversight agencies were perfectly adequate to meet concerns expressed by honourable senators. Of course, we now know that the existing oversight provisions are inadequate. Listen to the words of Shirley Heafey, Chairman of the Commission for Public Complaints Against the RCMP, delivered last October:

We have received five complaints involving RCMP activities under the anti-terrorism legislation. This is probably the tip of the iceberg.

We have heard from Raja Khouri, the national president of the Canadian Arab Federation that the Arab Canadian community fears that the expanding security powers are being used disproportionately against its members.

But how do we monitor the way the RCMP uses its new power? Now, this is a real challenge.

I can tell you that the Commission is not being given access to vital information that we need in order to fulfil our mandate in this area. The RCMP may have greater powers, but the agency with oversight responsibility does not.

I can tell you that the Commission is not being given access to judicial warrants or the affidavits upon which the warrants are based....

The RCMP...go as far as saying that they should be the ones deciding what is relevant, not the Commission. In my view, that is a bit like letting the fox guard the chicken coop....

I hope that Parliament will take the time to review our situation when they undertake the statutory review of the Anti-terrorism legislation. Without proper tools, they are asking us to perform oversight with partial vision.

CSIS, the Canadian Security and Intelligence Service, comes under the purview of the Security Intelligence and Review Committee, a group of Privy Councillors appointed by the government in consultation with leaders of opposition parties in the Commons. Last December 22, this review committee announced their intention to examine all aspects of CSIS involvement in the Arar case. They also issued a media backgrounder outlining SIRC's role and responsibilities in which the following paragraph appears:

It is important to note that the committee examines CSIS performance on a retrospective basis, that is to say it examines the past activities of the Service. Its work is not intended to provide oversight of current CSIS activities.

Honourable senators, this is not the oversight we discussed when Bill C-36 was before us. It is not the oversight we should have had these past two years.

I urge the committee to which this bill will be referred not to take refuge in the statutory review of Bill C-36, which is coming up by the end of the present calendar year; nor should the committee depend on the process announced by the Prime Minister and Ms. McLellan regarding a proposed national security committee of parliamentarians "to review national security matters."

It is clear from a reading of the letters sent by Ms. McLellan last month to the leaders of the government and of the opposition in the Senate that this will be quite a long, drawn out process. She intends to table "within a few weeks, a consultation paper to assist parliamentarians in their consideration of the new committee." She asks that the Commons Subcommittee on National Security and the Standing Senate Committee on National Security and Defence jointly create "an interim bicameral subcommittee" to consider what kind of committee we eventually want to have and "to report to the House and Senate in an integrated manner." Well, of course. Given the likelihood of an early dissolution, this bill would be enacted and there would be ample time and opportunity for numerous abuses to take place before any new committee is in operation or before anything is heard from the statutory review of Bill C-36.

In any event, Ms. McLellan's letters to Senator Austin and Senator Lynch-Staunton is clear as to how the government sees the role of the proposed national security committee. The committee will "provide advice and guidance in relation to national security matters."

• (1550)

No doubt the government needs advice and guidance, and this is a proper role for a parliamentary committee. However, this is not oversight. We need oversight, not a retrospective audit of the exercise of powers by the police and security agencies and by ministers and officials. Surely, we have learned enough from the past two years to see where our duty lies and to realize that we should act now where we failed to act two years ago.

If we fail to act, and further abuses happen, as they surely will, the finger can justly be pointed at us as parliamentarians for

failing to institute, with these extraordinary measures, proper oversight agencies and processes.

Honourable senators, I simply say to you, if we do not provide for oversight, who will?

**The Hon. the Speaker:** Senator Day, do you wish to speak?

**Hon. Joseph A. Day:** Honourable senators —

**The Hon. the Speaker:** I should caution honourable senators that if the Honourable Senator Day speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

**Hon. A. Raynell Andreychuk:** Honourable senators, I have a question for the Honourable Senator Murray.

**The Hon. the Speaker:** Honourable senators, I must first advise that Senator Murray's time is expired.

Is the Honourable Senator requesting leave?

**Senator Murray:** Yes.

**The Hon. the Speaker:** Is leave granted?

**Hon. Senators:** Agreed.

**Senator Andreychuk:** Honourable senators, I understand my honourable friend's very thoughtful and comprehensive review of both Bill C-36 and the public safety bill with which we are dealing today. The honourable senator's point seems to be that there has to be oversight to have the proper checks and balances in the system.

With Bill C-36, we struggled with the issue of proportionality for the right to security and the government's responsibility to carry that out, as opposed to minimal intrusions into our other rights and capabilities. Therefore, are we not dealing here constitutional, Charter and human rights issues as well as the balance of proportionality? Would these not be questions that the Standing Senate Committee on Legal and Constitutional Affairs has been set up to examine?

**Senator Murray:** The honourable senator is making the case that the bill should be referred to the Standing Senate Committee on Legal and Constitutional Affairs. I thought that is where it was going until yesterday morning when I received a communication, as I presume other honourable senators did, from the Canadian Association of University Teachers protesting that it would be referred to a nuts and bolts committee rather than to the Legal and Constitutional Affairs Committee. The short answer to my friend's question is yes.

I intend to give the authorities a lot of slack on these matters. Most of us are not specialists in security and police work. If we are in government or in Parliament, we must have confidence in the authorities and their judgment and the information that they give us.



That being said, they express a need for extraordinary powers. My inclination is to assist and to, within reason, grant them those powers. In exchange for that, I insist that there should be very effective oversight by Parliament. I also made the point that some of us would sleep a lot easier if we thought the particular ministers involved, be they the Minister of Justice or the Solicitor General, were not shy about asserting their authority and responsibility for the police and security services.

**Hon. Tommy Banks:** Will the honourable senator take another question?

**Senator Murray:** Yes.

**Senator Banks:** The honourable senator said in his speech that he hoped the committee would not take refuge in the review provisions that pertain to Bill C-36. That brings to mind a question that I asked the Honourable Senator Day a couple weeks ago about the review. Senator Day assured us that the orders that can be taken by ministers under the present bill have, if I recall correctly, a fairly short expiry time by comparison with some of the things that can be done under Bill C-36.

However, the authority of the ministers to make those orders, some of which go across lines that in happier days we never allowed ourselves to cross, does not have a sunset provision to it. Does the honourable senator think that it would be a good idea, in addition to the oversight he has talked about, to suggest to the committee that it consider, if not sunset provisions, that review provisions be put into the present bill?

**Senator Murray:** Honourable senators, I have never been a great fan of sunset provisions. I would accept them as alternative. I prefer effective oversight.

However, in a bill of this kind, I believe it would be necessary for us to insert a proper review provision, as well. Nothing will take the place of effective oversight. We have learned enough in the last couple years to see how much it is needed.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, the principle of the bill is before us and the question will be called shortly. In our process, the bill is not read the third time but is referred to a committee. There have been

sufficient views adduced in the debate on second reading of the bill.

Since the predecessor bill was in Parliament, there has been consideration in some quarters that the Standing Senate Committee on National Security and Defence would be the appropriate committee to examine this bill. Indeed, I had seen a few months ago some preparatory work done by that committee. I think I saw a list of witnesses that were tentatively identified as a preparatory piece of work by that particular committee.

There has been also the suggestion that the Standing Senate Committee on Transport and Communications would be the committee to which this bill would be referred. Today, and a previous day, an argument was made that the more appropriate committee would be the Legal and Constitutional Affairs Committee.

When the motion is made to refer the bill to committee, it is not debatable. Therefore, I must seize the opportunity to enter this debate at this point. That is why I am focusing on the issue of which would be, in the minds of the house, the better committee to receive the bill.

The Honourable Senator Murray alluded to a letter from the Canadian Association of University Teachers. Some honourable senators might have received a communication from a group called the International Civil Liberties Monitoring Group. That group includes such organizations as Amnesty International, l'Association québécoise des organismes de coopération internationale, CAUT, which I just mentioned, the Canadian Arab Federation, the Canadian Bar Association, the Canadian Auto Workers Union, the Canadian Centre for Philanthropy, the Canadian Council for International Cooperation, the Canadian Council for Refugees —

**The Hon. the Speaker:** Honourable senators, it being four o'clock, pursuant to the order adopted by the Senate on February 23, 2004, I am obliged to rise and interrupt the proceedings for the adjournment of today's sitting.

Debate suspended.

The Senate adjourned until Thursday, March 11, 2004, at 1:30 p.m.

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CANADA

# Debates of the Senate

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37th PARLIAMENT

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VOLUME 141

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NUMBER 20

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OFFICIAL REPORT  
(HANSARD)

Thursday, March 11, 2004

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THE HONOURABLE DAN HAYS  
SPEAKER





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## THE SENATE

Thursday, March 11, 2004

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

[Translation]

### ROYAL ASSENT

The Hon. the Speaker informed the Senate that the following communication had been received:

#### RIDEAU HALL

March 11, 2004

Mr. Speaker,

I have the honour to inform you that the Right Honourable Adrienne Clarkson, Governor General of Canada, signified royal assent by written declaration to the bill listed in the Schedule to this letter on the 11th day of March, 2004 at 8:55 a.m.

Yours sincerely,

Barbara Uteck  
*Secretary to the Governor General*

The Honourable  
The Speaker of the Senate  
Ottawa

Bill Assented to Thursday, March 11, 2004:

An Act respecting the effective date of the representation order of 2003 (*Bill C-5*)

[English]

## SENATORS' STATEMENTS

### TRIBUTES

#### THE LATE HONOURABLE SISTER MARY ALICE (PEGGY) BUTTS

The Hon. the Speaker: Honourable senators, I have received a letter from the Leader of the Government in the Senate, pursuant to rule 22(10), requesting that the time provided for consideration of Senators' Statements be extended for purposes of paying tribute to the Honourable Senator Mary Alice (Peggy) Butts, who passed away on March 6, 2004.

Hon. B. Alasdair Graham: Honourable senators, earlier this week I had the privilege of spending some memorable moments with the Sisters of the Congregation of Notre-Dame, in Sydney, Nova Scotia, at the funeral for Sister Mary Alice, best known as Peggy Butts, who passed away last Saturday. Honourable senators will recall that Sister Peggy served with distinction in this chamber from 1997 to 1999.

A religious senator? What a wonderful story that will make in a hoped for future biography on the life and times of this respected senator, scholar and teacher, as well as fearless advocate of justice for the poor and the disadvantaged.

As a member of the Congregation of Notre-Dame, Peggy inherited the compassion and social activism of the founder, St. Marguerite Bourgeoys. She was cut from the same kind of cloth as the young, adventuresome and courageous Marguerite of Troyes, France, who set off for the New World in 1653 on a perilous, two-month ocean voyage to what would become Canada.

Marguerite brought with her the power of her undying moral and intellectual force to the once tiny settlement of Ville-Marie, now the great city of Montreal.

Marguerite Bourgeoys founded the Congregation of Notre-Dame in 1670. The fire of her vision remained brilliantly alive in the hearts of the generations of independent-minded, intellectually vigorous and courageous women who would proudly follow in her path. Indeed, Peggy lived that venerated tradition in her day-to-day life.

When I first met Peggy on the frozen bogs and ponds of Bridgeport and Dominion, she was a tomboy, one of the gang. She was a hockey lover, a Montreal Canadiens fan, first, last and always.

Peggy grew up, as we all did, with the dangers and the insecurities of the coal-mining communities of Cape Breton close at hand. She also lived and breathed the beautiful spirit of the men of the deeps and their families, the kind of spirit that meant unconditional generosity and support for one's neighbour.

St. Marguerite once said that we must live in such a way that we not only love our neighbour, but that we make it easy for our neighbour to love us. That love, like the kind of love Sister Peggy grew up with in Cape Breton, and the kind of love she gave in turn to all who knew her, was always unconditional, whether it was for her students, for the homeless, for the hungry or for her colleagues in this special place.

Honourable senators, it was an honour to serve with Sister Peggy in this chamber and a privilege to have been her lifelong friend.

To the Butts family and to the Sisters of the Congregation of Notre-Dame, we extend an expression of profound sympathy.



• (1340)

**Hon. J. Michael Forrestall:** Honourable senators, as we have just heard from Senator Graham, Sister Peggy was dear to many. Sister Peggy was the embodiment of charity, without which there can be no love. Without all-encompassing love, there can be no charity. That was her great gift to her colleagues in her congregation, to her friends in Cape Breton and elsewhere in Canada and, latterly, to those of us who had the privilege of knowing her here in the Senate.

She was a wonderful person, an educator, a Sister of Charity, devoted to her faith, her church and her community and a Cape Bretoner through and through. I suspect she will have no trouble with the fiddle, although I understand it is the harp they use in heaven.

I have given some reflection to my brief association with Sister Peggy, although God knows I have known her longer than 50 years or more. Recently, I reviewed her maiden speech and her final speech in this chamber. In her maiden speech on December 2, 1997, she spoke to Bill C-7, an act to establish the Saguenay-St. Lawrence Marine Park, a living legacy of beauty for the people of Quebec and Canada as a whole. After some 40 years of driving back and forth between Halifax and Ottawa, I am still amazed at the beauty of that region of our great country. I am struck by the indescribable beauty, which occurred to her as well, of the St. Lawrence River and its environs. I am certain that she knew in her mind and her heart that that beauty bore only a passing comparison with Cape Breton's.

On June 7, 1999, Sister Peggy gave her final speech here on the issue of the Canadian environmental protection bill. Coming from Cape Breton, the home of one of the most contaminated sites in all of Canada, the Sydney tar ponds, she spoke up constantly for stronger standards to protect our environment.

On historical assessment of the legacy of a dear person, Senator Butts, as Canadians will know, was a deeply committed environmentalist who cared enough about Canada's environment and natural beauty that she used her position here in the Senate to fight for this worthy cause for the future and the quality of life of all Canadians. She was an example to us of a caring Canadian and, indeed, a thoughtful one.

I recall that under the chairmanship and tender loving guidance of Senator Murray we were listening one day to great discourses on a mine that had been flooded. Everyone had an idea. Senator Phalen will recall that debate. Everyone asked: How will we get the coal out? After about an hour, Sister Peggy nudged me and said, "Senator Mike, did it occur to anybody to wonder what in the devil we will do with that contaminated water that filled the damn mine to begin with? If they think they can dump it down over the hill, they are wrong."

That was the woman I knew. I am blessed by her vision of charity because it flowed from true love to all her brothers and sisters.

**Hon. Terry Mercer:** Honourable senators, I rise today to express my heartfelt condolences for a woman who exemplified what it is to serve in public life. The passing of Sister Mary Alice Butts, affectionately known as Sister Peggy, has deeply affected us all.

I have learned something today, though, that I do not like about Sister Peggy — she was a Canadiens fan! Perhaps Senator Graham should not have let us in on what is, perhaps, the darker side of her life.

It would take more time than I have to speak of her many accomplishments, but I will try to highlight her life briefly. This, in itself, is a testament to her life as a true humanitarian, religious person, educator and parliamentarian. Quite simply, Sister Peggy was a well-known advocate of social and academic justice both locally and abroad.

In 1997, the wise and great leader, Prime Minister Jean Chrétien, appointed Sister Peggy to the Senate, the first religious sister to become a senator. During the two years she served this country, Sister Peggy donated her salary to charity. That, however, is only a small part of her legacy. Being a senator allowed her to take her life-long struggle for social justice to the national stage.

Born in humble beginnings, she was a native of Bridgeport, Nova Scotia. A graduate of St. Ann's High School, Glace Bay, and St. Francis Xavier University, Antigonish, she also received her masters degree in political philosophy from the University of Ottawa and her doctorate from the University of Toronto.

To recognize her contribution to social justice causes, her alma mater, St. Francis Xavier, conferred on her an honorary doctorate of laws degree in 1997. At the age of 79, she was in her fifty-third year as a sister of the congregation of Notre-Dame.

Sister Peggy served as a high school teacher and principal for many different schools, most notably Holy Angels High School in Sydney, a place that produced a great many Liberals. She later taught at St. Francis Xavier University and was on staff at Xavier Junior College in Sydney.

She continued her role in political science at the University College of Cape Breton until her retirement in 1993. As a teacher, she always had time to help her students in any way she could. Whether it was money for meals or books, or lending an ear of support, her approach to life was always giving to those in need.

While in the Senate, she obtained federal funds to enable the Cape Breton-Victoria Regional School Board to initiate the breakfast program for schools. The devotion to her career as an educator was persistent, as she remained a member of the board's breakfast program committee since that time.

In her capacity as senator, she was a valued member of many committees. Most notably was her commitment to her native home, Cape Breton, specifically with economic development in that depressed region.

Acting as Deputy Chair of the Standing Senate Committee on Social Affairs, Science and Technology, her work reminded us that politics needs to be tempered with social justice, spirit, hard work and a heart. To quote from the committee's report on social cohesion:

We think that more Canadians, and most particularly, more corporate and political leaders, need to begin a sober reflection of how they can think and act in new ways. It is no longer possible to accept a polarized society as the inevitable price of economic progress. The cost is too high for each and every one of us.

**The Hon. the Speaker:** Senator Mercer, I regret to advise that your time has expired.

• (1350)

**Hon. Jane Cordy:** Honourable senators, I too would like to join in the tributes to Sister and Senator Peggy Butts this afternoon. I did not have the pleasure of serving in this Senate with Sister Butts, but she was the principal of Holy Angels High School in Sydney when I was a student. I was one of the Liberal graduates from the school.

Sister Butts was not a principal who sat at the desk away from the daily goings on in the school. She was always actively involved in teaching and in extracurricular activities. On Saturday morning, Sister Butts held basketball training sessions for the high school basketball team and for anyone else interested in sport. I was fortunate to be a part of her sessions.

Sisters at that time were still wearing long black uniforms and long veils, but peeking out from her long black skirt on Saturday mornings were her white basketball sneakers. She would race down the court, with her veil sailing out behind her, and would leap up to put the ball in the basket. After the first morning, when I must admit we were all a bit surprised, we came to realize that becoming a sister did not mean you had to give up your love of sports. Her love of basketball was only surpassed by her love of the Montreal Canadiens.

Although we did not realize it at the time, Sister Butts was an example to all her students at Holy Angels High. She had a brilliant mind and used it for the good of the community. She was a social activist who worked tirelessly to make things better for those less fortunate. Her presence will be missed by everyone who knew her, but especially by those in her home of Cape Breton, where she worked so hard for social justice.

**Hon. Catherine S. Callbeck:** Honourable senators, I should like to add my tribute to the late Sister and Senator Peggy Butts. We were appointed to the Senate at the same time. Through our time together here, and with her visit to Prince Edward Island, I came to know her passion for life and for the people she served. Since the news of her death, people from all walks of life, from church community groups and representatives of all political parties, have expressed their regret and most of all their respect for a life truly lived to the fullest.

Sister Butts devoted her life to her church, to her community and to her country. As an educator, as an advocate for social

justice, and as a truly warm and compassionate human being, she gave her very best to improve the lives of others. Today we mourn the loss not only of a truly exceptional friend and former colleague, but of a wonderful human being.

Sister Peggy came from humble beginnings and never forgot the needs and hopes of ordinary people. She dedicated her life to making a difference, and her community is all the better because of that.

She leaves a great legacy, one that is a source of inspiration to all of us. To her family, and the sisters of her Congregation of Notre-Dame, I express my sincere sympathies. Her passing is a great loss, and she will be greatly missed.

[Translation]

**Hon. Marcel Prud'homme:** Honourable senators, I came to know Sister Peggy Butts, wonderful woman that she was, perhaps a little too late in my life. I will not repeat what the others have said about her career, her great breadth of knowledge, but I will talk about two things about her that always struck me: her great intelligence and her great humility.

I met her on her very first day in the Senate. We became friends, and she became my counsellor. As a fellow Roman Catholic, when I had doubts about something from time to time, I went to her without hesitation. I admit that publicly.

I will remember the evenings when honourable senators would be waiting for their cabs or buses. There she would be, with her legendary winter hat and her big winter boots, waiting for the bus to appear and take her back to her community to have supper with the other sisters. I said to her:

[English]

I said, "Sister, can I give you a ride?" She said, "Of course. What do you think I am?" So I took her for a ride. On our way there, I said, "Sister, I do not know if you would permit me, but will you have dinner with me?" She looked at me like I was a strange character. She said, "Of course," and added, "I like fish."

She taught me how to eat all of these products that I was unaccustomed to, and she even knew how to enhance a good dinner with a good bottle of white wine. It was not a sin for us to share that great moment.

What I am about to say could serve many honourable senators. Many of our colleagues leave us, disappearing from our memory or our conscience. Every year, on August 15, which happens to be Assumption Day, I would get Sister Butts on the telephone and we would talk for an hour or an hour and a half. Last summer we talked for two hours while I was looking after my sister. We talked a little bit about religion, but a lot about politics. She told me that since we have difficulty electing women to the other chamber, the government of the day has the option of achieving a 50-50 ratio between men and women in the Senate and that the Prime Minister of the day should appoint only women. I pray for her.

**The Hon. the Speaker:** I am sorry to interrupt, Senator Prud'homme, but I must advise that your time has expired.



**Hon. Lowell Murray:** Honourable senators, Senator Butts and I were not strangers to each other, far from it, but we were thrown unexpectedly into a new and for me extremely interesting and enjoyable relationship as Chair and Deputy Chair of the Standing Senate Committee on Social Affairs, Science and Technology. On the agenda at the time was a study on social cohesion, which we completed. Peggy Butts had been well trained and well educated academically. She understood the sociology of it, the economics of it and the politics of it. She knew the science as well as any expert witness who came before us. What she had ahead of them, and ahead of many of us, was the hands-on experience of having worked among people of all social and economic conditions and backgrounds. These were her people. She was more than equal to any academic or theoretical testimony that might be brought to bear by expert witnesses or by others.

We often hear it said that religion and politics do not mix. I think I know what that means, but I hope it will never be taken to mean that people like Peggy Butts should be discouraged from taking part in politics and public life. What she did toward the end of her life as a senator was entirely consistent with the vocation she accepted as a very young girl to do God's work on earth.

#### MEMORANDUM OF UNDERSTANDING PENDING WHISTLE-BLOWING LEGISLATION

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, the President of the Treasury Board has stated that public servants who report wrongdoing will be fully protected from retaliation as though whistle-blowing legislation were in place. The government is asking public servants to come forward in the current highly charged environment of scandal and corruption and tell what they know.

• (1400)

If this is not a facade, if the government is indeed serious about wanting federal employees to come forward, then it is essential that some form of written assurance against reprisal be set in place immediately. The government has made a commitment that whistle-blowing legislation will be introduced before the end of this month, and the official opposition in the Senate has proposed a pre-study of this important proposed legislation, to ensure that the Senate's concerns are addressed while the bill is still in the other place.

Honourable senators, even with a determined effort by Parliament to deal with this legislation expeditiously, it may well die on the Order Paper at the premature call of an election. Civil servants need something concrete to ensure that there is a clear avenue to follow should they subsequently have reason to believe that they have been subject to reprisal. Public servants need protection from reprisal now, and that protection can be in place within days.

I call upon the President of the Treasury Board to immediately enter into a memorandum of understanding with all public service unions to amend all their respective collective agreements, by adding the following clause:

No employee shall be disciplined or otherwise penalized, including but not limited to, demotion, suspension, dismissal, financial penalty, loss of seniority, advancement or opportunity in the public service, as a result of disclosing any wrongful act or omission, such as an offence against an Act of Parliament, an Act of a legislature of any province or any instrument issued under any such Act; an act or omission likely to cause a significant waste of public money; an act or omission likely to endanger public health or safety or the environment.

As well, I call on the government to support the inclusion of this protection in the collective agreements between all federal agencies and Crown corporations and their workers.

#### THE LATE SIR HAROLD BERNARD ST. JOHN

**Hon. Anne C. Cools:** Honourable senators, I rise to pay tribute to a native son of Barbados who, at age 72, died a few days ago on February 29 after a long and heroic struggle with cancer. I pay tribute to Sir Harold Bernard St. John, a distinguished Barbadian parliamentarian for about 40 years and Prime Minister of Barbados from 1985 to 1986.

Honourable senators, Sir Harold had been a lawyer, a Queen's Counsel, a member of parliament, a senator, leader of the opposition, and prime minister. In 1994, he received one of Barbados highest national honours. He was knighted, becoming Harold Bernard St. John, Knight of St. Andrew.

On March 8, 2004, the Government of Barbados accorded Sir Harold a state funeral at Christ Church Parish Church in the constituency he had represented faithfully for many years. At this funeral, Minister of Foreign Affairs Billie Miller spoke about him, saying:

This was the nature of the man, he stayed the course. He possessed great strength and purpose of character. His personal integrity and standards were set at the highest levels, the same levels at which his indomitable courage and unflagging commitment were fixed.

Honourable senators, the Honourable Billie Miller, also a Dame, is my cousin; her father and my mother were brother and sister.

Honourable senators, Sir Harold was a stalwart and unflinching patriot. Throughout his professional life, he established and maintained a record for forthrightness and honesty. He had a wide sense of the law and of the constitution. His unwavering cause was Caribbean integration, cooperation and development.

Sir Harold leaves behind his wife, Lady Stella, their son Bryte, and their two daughters, Charmaine and Nicole, and their grandchildren. To them and to all his family and friends I offer my best wishes and prayers at this time. I convey my sympathies to the Government of Barbados and to all Barbadians at home and abroad.

In tribute to Sir Harold, known to Barbadian people as "Bree," I cite St. Paul, 2 Timothy chapter 4, verses 7 and 8 of the King James version:

I have fought a good fight, I have finished my course, I have kept the faith: Henceforth there is laid up for me a crown of righteousness, which the Lord, the righteous judge, shall give me at that day: and not to me only, but unto all them also that love his appearing.

Honourable senators should also be aware that our Speaker of the Senate attended the state funeral in Barbados. I have no doubt that the people of Barbados were deeply honoured that the Speaker of the Senate carried out that duty on behalf of all the people of Canada.

[Translation]

## QUEBEC FILM INDUSTRY

### CONGRATULATIONS TO DENYS ARCAND

**Hon. Lise Bacon:** Honourable senators, I would like to speak about the great international success of the film *The Barbarian Invasions*, by filmmaker Denys Arcand. As a director and screenwriter, Denys Arcand has had a significant influence on the cinematic and cultural landscape of Quebec and of Canada for more than 40 years.

Some of you may remember the film *Seul ou avec d'autres* co-directed by Arcand in 1962. That film won an award at the Cannes Festival, a first at the time for a Quebec film. Cinema historians consider that this film paved the way for many creative artists and encouraged the development of Quebec cinematography.

Denys Arcand began as a documentary filmmaker with the National Film Board of Canada, where one of his notable films was *Les Montréalistes*. Later he took a penetrating look at Quebec politics and society through such documentaries as *Québec: Duplessis et Après* and *Le confort et l'indifférence*. During the 1970s he moved into fiction with such features as *La maudite Galette*, *Réjeanne Padovani* and *Gina*. Arcand used these films to explore social themes, for example, the exploitation of workers and corruption.

He also wrote a popular television series on the life of Maurice Duplessis, former premier of Quebec, which was broadcasted in the late 1970s.

It was during the 1980s, however, with *The Decline of the American Empire* and *Jesus of Montreal*, that Denys Arcand obtained international recognition; these films won awards at Cannes and many other festivals.

It was during that period, when I was Quebec's minister of culture, that I met Denys Arcand. I found him to be charming and cultivated, a kind man without pretension. Despite his success and recognition, he has remained well anchored in reality.

He is an accomplished artist, a highly talented director, a creator with a point of view and a vision of the world and society. He knows how to use the medium of film brilliantly to capture the public's attention and stir up debate.

I would like to congratulate Denys Arcand very warmly on the success of his excellent film, *The Barbarian Invasions*, for all the prestigious awards it has won all over the world, notably three Césars in Paris, one of them for best French film, and the Oscar for best foreign language film. I sincerely hope he will continue to make us think, to entertain us, and to move us with his films.

[English]

### JOURNALISTS KILLED IN THE LINE OF DUTY

**Hon. Joan Fraser:** Honourable senators, yesterday, Senator Nolin reminded us that every year journalists are killed around the world in the course of doing their work or because of the work that they do. We do not remember them as we should. I thought I would follow upon his statement, therefore, by reminding us of who these people are.

Last year, according to the Committee to Protect Journalists, the following journalists were killed because they were journalists: in Brazil, Nicanor Linhares Batista and Luiz Antonio da Costa; in Cambodia, Chou Chetharith; in Colombia, Luis Eduardo Alfonso Parada, Guillermo Bravo Vega, Jaime Rengifo Revero and Juan Carlos Benavides Arévalo; in Guatemala, Héctor Ramirez; in India, Parvaz Mohammed Sultan; in Indonesia, Ersi Siregar; in Iran, a woman from Montreal, Zahra Kazemi; in Iraq, Terry Lloyd, Paul Moran, Kaveh Golestan, Michael Kelly, Christian Liebig, Julio Anguita Parrado, Tareq Ayyoub, José Couso, Taras Protsyuk, Richard Wild, Jeremy Little, Mazen Dana, Ahmed Shawkat; in Israel and the occupied territories, Nazih Darwazeh and James Miller; in Ivory Coast, Jean Hélène; in Nepal, Gyanendra Khadka; in Pakistan, Fazal Wahab; in Philippines, Apolinario Pobeda, Bonifacio Gregorio, Noel Villarante, Rico Ramirez and Juan Pala; in Russia, Aleksei Sidorov; and in Somalia, Abdullahi Madkeer.

There are at least a dozen others listed by the Committee to Protect Journalists who are thought to have been killed because of their work, but it is not certain. The names I have given you are of the 36 cases where we know why they died. The eminent American journalist Ted Koppel said that their example humbles us. It is incumbent upon us to bear witness and to honour them.



• (1410)

## ROUTINE PROCEEDINGS

### INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

#### REPORT PURSUANT TO RULE 104 TABLED

**Hon. Lise Bacon:** Honourable senators, pursuant to rule 104 of the *Rules of the Senate* I have the honour to table the fourth report of the Standing Committee on Internal Economy, Budgets and Administration. This report outlines the expenses incurred by the Committee during the Second Session of the Thirty-seventh Parliament.

(For text of report, see today's Journals of the Senate, Appendix, p. 266.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Bacon, with leave of the Senate and notwithstanding rule 58(1)(g), report placed on the Orders of the Day for consideration later this day.

### FISHERIES AND OCEANS

#### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—REPORT OF COMMITTEE ON STUDY OF QUOTA ALLOCATIONS AND BENEFITS TO NUNAVUT AND NUNAVIK FISHERMEN PRESENTED

**Hon. Joan Cook,** Deputy Chair of Standing Senate Committee on Fisheries and Oceans, presented the following report:

Thursday, March 11, 2004

The Standing Senate Committee on Fisheries and Oceans has the honour to present its

#### SECOND REPORT

Your Committee, which was authorized by the Senate on Friday, February 13, 2004 to examine and report upon matters relating to quota allocations and benefits to Nunavut and Nunavik fishermen, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of such study.

Pursuant to section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget

submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

JOAN COOK  
Deputy Chair

(For text of budget, see today's Journals of the Senate, Appendix A, p. 278.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Cook, with leave of the Senate and notwithstanding rule 58(1)(g), report placed on the Orders of the Day for consideration later this day.

#### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—REPORT OF COMMITTEE ON STUDY OF MATTERS RELATING TO STRADDLING STOCKS AND FISH HABITAT PRESENTED

**Hon. Joan Cook,** Deputy Chair of Standing Senate Committee on Fisheries and Oceans, presented the following report:

Thursday, March 11, 2004

The Standing Senate Committee on Fisheries and Oceans has the honour to present its

#### THIRD REPORT

Your Committee, which was authorized by the Senate on Friday, February 13, 2004 to examine and report upon matters relating to straddling stocks and to fish habitat, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of such study.

Pursuant to section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

JOAN COOK  
Deputy Chair

(For text of budget, see today's Journals of the Senate, Appendix B, p. 284.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Cook, with leave of the Senate and notwithstanding rule 58(1)(g), report placed on the Orders of the Day for consideration at the next sitting of the Senate.

# INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

## FIFTH REPORT OF COMMITTEE PRESENTED

**Hon. Lise Bacon**, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, March 11, 2004

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

## FIFTH REPORT

Your Committee recommends that the following funds be released for fiscal year 2003-2004.

### Banking, Trade and Commerce (Legislation)

Professional and Other Services	\$ 9,750
Transportation and Communications	\$ 0
Other Expenditures	\$ 1,000
<b>Total</b>	<b>\$ 10,750</b>

### Energy, the Environment and Natural Resources (Legislation)

Professional and Other Services	\$ 3,000
Transportation and Communications	\$ 0
Other Expenditures	\$ 1,000
<b>Total</b>	<b>\$ 4,000</b>

### Foreign Affairs (Legislation)

Professional and Other Services	\$ 1,750
Transportation and Communications	\$ 750
Other Expenditures	\$ 750
<b>Total</b>	<b>\$ 3,250</b>

### Internal Economy, Budgets and Administration

Professional and Other Services	\$ 1,000
Transportation and Communication	\$ 0
Other Expenditures	\$ 0
<b>Total</b>	<b>\$ 1,000</b>

### Legal and Constitutional Affairs (Legislation)

Professional and Other Services	\$ 18,000
Transportation and Communications	\$ 9,350
Other Expenditures	\$ 1,000
<b>Total</b>	<b>\$ 28,350</b>

(includes funds for conference attendance)

### National Finance (Legislation)

Professional and Other Services	\$ 2,500
Transportation and Communications	\$ 0
Other Expenditures	\$ 0
<b>Total</b>	<b>\$ 2,500</b>

## Scrutiny of Regulations (Joint Committee)

Professional and Other Services	\$ 750
Transportation and Communications	\$ 600
Other Expenditures	\$ 1,185
<b>Total</b>	<b>\$ 2,535</b>

Respectfully submitted,

LISE BACON  
Chair

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Bacon, with leave of the Senate and notwithstanding rule 58(1)(g), report placed on the Orders of the Day for consideration at the next sitting of the Senate.

## AGRICULTURE AND FORESTRY

### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—REPORT OF COMMITTEE ON STUDY OF PRESENT STATE AND FUTURE OF AGRICULTURE AND FORESTRY PRESENTED

**Hon. Leonard J. Gustafson**, for Senator Oliver, Chair of the Standing Senate Committee on Agriculture and Forestry, presented the following report:

Thursday, March 10, 2004

The Standing Committee on Agriculture and Forestry has the honour to present its

## SECOND REPORT

Your Committee, was authorized by the Senate on February 16, 2004 to hear from time to time witnesses, including both individuals and representatives from organizations, on the present state and the future of agriculture and forestry in Canada, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary.

Pursuant to Section 2:07 of the *Procedural Guidelines for the Financial Operations of Senate Committees*, the Budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report of said Committee are appended to this report.

Respectfully submitted,

LEONARD J. GUSTAFSON  
For the Chair

(For text of budget, see today's Journals of the Senate, Appendix C, p. 290.)



**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Gustafson, with leave of the Senate and notwithstanding rule 58(1)(g), report placed on the Orders of the Day for consideration later this day.

BUDGET AND AUTHORIZATION TO ENGAGE  
SERVICES—REPORT OF COMMITTEE ON STUDY OF  
DEVELOPMENT AND MARKETING OF VALUE-ADDED  
AGRICULTURAL, AGRI-FOOD AND FOREST  
PRODUCTS PRESENTED

**Hon. Leonard J. Gustafson**, for Senator Oliver, Chair of the Standing Senate Committee on Agriculture and Forestry, presented the following report:

Thursday, March 10, 2004

The Standing Committee on Agriculture and Forestry has the honour to present its

THIRD REPORT

Your Committee, was authorized by the Senate on February 16, 2004 to examine the issues related to the development and marketing of value-added agricultural, agri-food and forest products, on the domestic and international markets, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as my be necessary.

Pursuant to Section 2:07 of the *Procedural Guidelines for the Financial Operations of Senate Committees*, the Budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report of said Committee are appended to this report.

Respectfully submitted,

LEONARD J. GUSTAFSON  
*For the Chair*

*(For text of budget, see today's Journals of the Senate, Appendix D, p. 295.)*

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Gustafson, with leave of the Senate and notwithstanding rule 58(1)(g), report placed on the Orders of the Day for consideration later this day.

BANKING, TRADE AND COMMERCE

BUDGET AND AUTHORIZATION TO ENGAGE  
SERVICES—REPORT OF COMMITTEE ON STUDY  
OF CHARITABLE GIVING PRESENTED

**Hon. Richard H. Kroft**, Chair of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, March 11, 2004

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

SECOND REPORT

Your Committee, which was authorized by the Senate on Thursday, February 26, 2004, to examine and report on issues dealing with charitable giving in Canada emerging issues related to its mandate, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as my be necessary for the purpose of such study.

Pursuant to Section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

RICHARD H. KROFT  
*Chair*

*(For text of budget, see today's Journals of the Senate, Appendix E, p. 300.)*

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Kroft, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

CRIMINAL CODE

BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Richard H. Kroft**, Chair of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, March 11, 2004

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

THIRD REPORT

Your Committee, to which was referred Bill C-13, to amend the Criminal Code (capital markets fraud and evidence-gathering) has, in obedience to the Order of Reference of Tuesday, February 24, 2004, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

RICHARD H. KROFT  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall the bill be read the third time?

On motion of Senator Kroft, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

• (1420)

## LIBRARY AND ARCHIVES OF CANADA BILL

### BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Yves Morin**, for Senator Kirby, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, March 11, 2004

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

### THIRD REPORT

Your Committee, to which was referred Bill C-8, to establish the Library and Archives of Canada, to amend the Copyright Act and to amend certain Acts in consequence, has, in obedience to the Order of Reference of Wednesday, February 18, 2004, examined the said Bill and now reports the same with the following amendments:

1. *Pages 9 and 10, clause 21:*

(a) Page 9: Delete lines 26 to 37; and

(b) Page 10: Delete lines 1 to 31.

2. *Page 20 clause 53:* Replace line 5 with the following:

**“53. If Bill C-6, introduced in the 3rd”.**

3. *Page 13, new clause 33.1:* Add after line 31 the following:

**“Injured Military Members Compensation Act**

**33.1 Paragraph 13(c) of the *Injured Military Members Compensation Act* is replaced by the following:**

(c) personal information collected or obtained by the Library and Archives of Canada in the administration of the *Library and Archives of Canada Act*, or any predecessor enactment relating to the same subject-matter.”.

And that clauses 22 to 57 be renumbered and any cross-references thereto accordingly.

Respectfully submitted,

YVES MORIN  
*For the Chair*

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Morin, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

## SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—REPORT OF COMMITTEE ON STUDY OF HEALTH ISSUES SURROUNDING REPORT ON STATE OF HEALTH CARE SYSTEM PRESENTED

**Hon. Yves Morin**, for Senator Kirby, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, March 11, 2004

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

### FOURTH REPORT

Your Committee, to which was authorized by the Senate on Friday, February 13, 2004, to examine and report on issues arising from, and developments since, the tabling of its final report on the state of the health care system in Canada in October 2002. In particular, the committee has been authorized to examine issues concerning mental health and mental illness, respectfully requests for the purpose of this study that it be empowered to engage the services of such counsel, technical, clerical and other personnel as may be necessary and that it be empowered to travel within Canada for the purpose of its study.

Pursuant to section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy Budgets and Administration and the report thereon of the Committee are appended to this report.

Respectfully Submitted,

YVES MORIN  
*For the Chair*

(For text of budget, see today's Journals of the Senate, Appendix F, p. 306.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Morin, with leave of the Senate and notwithstanding rule 58(1)(g), report placed on the Orders of the Day for consideration later this day.



[Translation]

Thursday, March 11, 2004

## OFFICIAL LANGUAGES

### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—REPORT OF COMMITTEE ON STUDY OF OPERATION OF OFFICIAL LANGUAGES ACT AND RELEVANT REGULATIONS, DIRECTIVES AND REPORTS PRESENTED

**Hon. Maria Chaput**, Chair of the Standing Senate Committee on Official Languages, presented the following report:

Thursday, March 11, 2004

The Standing Senate Committee on Official Languages has the honour to present its

## FOURTH REPORT

Your Committee, which was authorized by the Senate on February 19, 2004, to examine and report upon the operation of the *Official Languages Act*, and of regulations and directives made thereunder, respectfully requests that it be empowered to engage the services of such counsel, technical, clerical and other personnel as may be necessary for the purpose of such study.

Pursuant to section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

MARIA CHAPUT  
Chair

(For text of budget, see today's Journals of the Senate, Appendix G, p. 311.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Chaput and notwithstanding rule 58(1)(g), report placed on the Orders of the Day for consideration later this day.

[English]

## ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

### BUDGET—REPORT OF COMMITTEE ON STUDY OF ISSUES RELATED TO MANDATE PRESENTED

**Hon. Tommy Banks**, Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

## FIFTH REPORT

Your Committee, was authorized by the Senate on February 10, 2004, to examine and report on emerging issues related to its mandate.

Pursuant to Section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

TOMMY BANKS  
Chair

(For text of budget, see today's Journals of the Senate, Appendix H, p. 316.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Banks, with leave of the Senate and notwithstanding rule 58(1)(g), report placed on the Orders of the Day for consideration later this day.

## COPYRIGHT ACT

### BILL TO AMEND—FIRST READING

**Hon. Joseph A. Day** presented Bill S-16, to amend the Copyright Act.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Day, bill placed on the Orders of the Day for second reading two days hence.

[Translation]

## COMPETITION IN THE PUBLIC INTEREST: LARGE BANK MERGERS IN CANADA

### NOTICE OF INQUIRY

**Hon. Marcel Prud'homme:** Honourable senators, I give notice that on Tuesday, March 23, 2004:

I will call the attention of the Senate to the sixth report of the Standing Senate Committee on Banking, Trade and Commerce entitled: "Competition in the Public Interest: Large Bank Mergers in Canada," tabled in the Senate on December 12, 2002.

## OFFICIAL LANGUAGES

BILINGUAL STATUS OF CITY OF OTTAWA—  
PRESENTATION OF PETITION

**Hon. Jean-Robert Gauthier:** Honourable senators, pursuant to rule 4(h), I have the honour to table in this House a petition from another 42 signatories, asking that Ottawa, the capital of Canada, be declared a bilingual city, reflecting the country's linguistic duality.

The petitioners wish to draw the attention of Parliament to the following:

That the Canadian Constitution provides that English and French are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the Government of Canada;

That section 16 of the Constitution Act, 1867, designates the city of Ottawa as the seat of the government in Canada; and

That citizens have the right in the national capital to have access to the services provided by all institutions of the Government of Canada in the official language of their choice, namely French or English;

That Ottawa, the capital of Canada, has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners call upon Parliament to affirm in the Constitution of Canada, that Ottawa, the capital of Canada, be declared officially bilingual, under section 16 of the Constitution Acts from 1867 to 1982.

• (1430)

**Hon. Joseph A. Day:** Honourable senators, pursuant to rule 4(h), I have the honour to table petitions signed by another 95 people asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that Parliament consider the following:

That the Canadian Constitution provides that English and French are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the government of Canada;

That section 16 of the Constitution Act, 1867 designates the city of Ottawa as the seat of government of Canada;

That citizens have the right in the national capital to have access to the services provided by all institutions of the government of Canada in the official language of their choice, namely English or French;

That Ottawa, the capital of Canada, has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners ask Parliament to affirm in the Constitution of Canada that Ottawa, the capital of Canada, be declared officially bilingual, under section 16 of the Constitution Acts from 1867 to 1982.

[English]

## QUESTION PERIOD

## TREASURY BOARD

## WHISTLE-BLOWING PROTECTION

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, my question is to the Leader of the Government in the Senate. His colleague the President of the Treasury Board has stated that public servants who report wrongdoing will be fully protected from retaliation.

Honourable senators will know that there are at least two major ways in which this protection can be afforded. One is by comprehensive whistle-blowing legislation. The other way is by placing a specific provision against retaliation in the existing collective agreements between the public employer and public employees.

My question to the minister in the Senate is whether he will intervene and encourage the President of the Treasury Board to enter into negotiations? My understanding is that the public service bargaining units are open to doing exactly that, and within a matter of a few days we could have whistle-blowing protection. Public servants would feel protected in coming forward with other instances of abuse that are occurring.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I listened with great interest to Senator Kinsella's participation in Senators' Statements on this topic. I will be very happy to take his representation to the President of the Treasury Board.

**Senator Kinsella:** I thank the honourable minister for that. Perhaps in his consultation with his colleague, he will point out that this approach is not unusual. For example, notwithstanding that we have both federal and provincial anti-discrimination statutes such as the Human Rights Act, we also have in collective agreements non-discrimination clauses. The two can run parallel and perhaps his colleague might find that instructive.

**Senator Austin:** Again, I appreciate the suggestion of Senator Kinsella. He has raised some interesting issues. I believe Senator Kinsella is suggesting, as an appropriate interim procedure, adding a clause to the specific labour agreements. Perhaps a declaration by Order in Council would suffice as an interim regime. The question is one to which I cannot give a qualitative answer. Certainly the representations will be taken to the President of the Treasury Board very quickly.



## NATIONAL DEFENCE

### IRREGULARITIES IN PAYOUTS TO HEWLETT PACKARD

**Hon. Michael A. Meighen:** Honourable senators, another chapter has seemingly been opened in what appears to be a never-ending saga. I am referring, of course, to the government's ongoing mismanagement of the public purse. Yesterday we learned the Department of National Defence had allegedly paid out \$90 million to Hewlett Packard for work that was never done. Invoices were received for products that were never received. The government paid anyway.

It seems to be a strange new way of doing business and, of course, it reminds us of earlier fiascos. Today it was revealed that invoices were more in the order of \$160 million. The government seems to have made a show of being in control by telling Canadians that the matter has been long under investigation and that at least one head has already rolled.

If this matter has been public knowledge for quite some time, as the Minister of National Defence claims, why is the government taking so long to come to a final determination of the exact amounts involved? Further, if, as the Minister of National Defence is also claiming, these irregularities were discovered by processes that were in place, why did those processes not catch the irregularities before some \$160 million went out the door?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, it never rains but it pours. In the situation raised by Senator Meighen, a most vigorous attempt is underway to determine all of the facts. The honourable senator is aware that the private-sector provider, Hewlett Packard, disputes many of the government's present allegations with respect to the contractual relationship. These are highly complex issues involving a wide variety of people, subcontractors and officials in the Department of National Defence. The government is proceeding vigorously to deal with the issue. Hopefully, the Minister of National Defence can give further information at an early time.

**Senator Meighen:** Honourable senators, I never thought it possible but the minister's opening statement almost made me feel sorry for him. It is indeed a deluge that seems to be falling upon those on the other side. I never thought I would feel sorry, but I will have my spine stiffened.

The minister did touch on something in his answer that I wanted to ask him by way of a supplementary question. As he will recall, the Minister of National Defence stated in the other place that the government has an aggressive strategy to recover the government's money.

Incidentally, honourable senators, I thought it was the money of the people of Canada but apparently it is the government's money. That is another story.

The minister went on to say that the company involved, Hewlett Packard, is in fact cooperating. Now, as the minister himself has said, Hewlett Packard says it will defend vigorously any claim that is brought, perhaps he could enlighten this chamber as to

how it can be claimed that Hewlett Packard is cooperating if it is vigorously defending the claims brought by the government?

**Senator Austin:** My understanding is that Hewlett Packard is cooperating with respect to an examination of documents in process. In terms of the analysis of responsibility, there are very wide differences in some areas.

**Senator Meighen:** I have a final supplementary question. Perhaps the minister, who has been around government for many years, could tell us whether or not the payment of millions of dollars on the basis of invoices, without any reference to products received, is a new practice or something that has been going on for years?

• (1440)

**Senator Austin:** I am afraid that I have not been involved, until December 12 of last year, in the executive side of government for something like 19 years — the honourable senator having addressed his question to me personally. I have not had an experience with departmental practice, honourable senators. However, to say what the honourable senator is saying, but in slightly different words, this situation cries out for administrative review.

**Senator Meighen:** Perhaps the situation also calls out for a change of government, too, but that is another matter.

**Senator Austin:** Not that far.

**Hon. Terry Stratton:** The government's latest scandal involves the alleged payment of \$160 million in phoney invoices from Compaq Canada. The Government of Canada does not have a handle on the computer work that is being done for it, obviously. Is the government treating this as a wake-up call for the work it contracts out for computer services? If so, will the government conduct a value-for-money audit on the contracts it is tendering for computer services in other departments?

**Senator Austin:** Honourable senators, let me be clear: Compaq was the original contractee; Hewlett Packard then acquired Compaq. Hence, Senator Stratton's question is in the same area of the previous questions of Senator Meighen.

In answer to the question, since the honourable senator likes succinct answers, the answer is yes.

**Senator Stratton:** I appreciate that; I would rather that than the other.

## JUSTICE

### PAYOUTS TO EDS CANADA FOR GUN REGISTRY COMPUTER SYSTEM

**Hon. Terry Stratton:** Honourable senators, the government wrote cheques totalling \$227 million to EDS Canada to develop a computer system for the gun registry, a system that simply did not work. The Justice Department had to throw the system out the window and pay another contractor to do the job right.

In light of this new scandal, is the government prepared to take another look at those contracts to EDS and find out how it is possible to spend \$227 million and not have a working computer system for the registry?

Did EDS pull the wool over somebody's eyes? If so, what steps will the government take either to get its money back or to discipline those responsible for this quarter-billion-dollar fiasco?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I do not have any information at hand with respect to the question of the EDS contracts. However, I shall seek that information and supply it to the honourable senator as soon as I can.

## NATIONAL DEFENCE

### UNTENDERED CONTRACT TO GENERAL DYNAMICS CANADA

**Hon. J. Michael Forrestall:** Honourable senators, my question is for the Leader of the Government in the Senate. I have it on good authority that an untendered contract was issued to General Dynamics Canada, which is in the Minister of National Defence's riding, for extra scope not included in the Aurora Incremental Modernization Project request for proposals.

Will the Leader of the Government in the Senate enlighten this chamber as to why an untendered contract was given to General Dynamics Canada that was outside the request for proposals and thus outside government guidelines?

**Hon. Jack Austin (Leader of the Government):** In order to assist me in my inquiry of the Department of National Defence, would the honourable senator have the amount of that contract and what the contract was for, particularly?

**Senator Forrestall:** That question was for next week, but I guess we will not be here. No, I cannot provide that information at present.

**Senator Austin:** I shall do my best with what I have heard from the honourable senator.

**Senator Forrestall:** The honourable senator will have the exact amount of the contract as soon as I get to my office. That information is probably on its way down now.

### REPLACEMENT OF SEA KING HELICOPTERS— UNTENDERED CONTRACT FOR SYSTEMS INTEGRATOR SYSTEM

**Hon. J. Michael Forrestall:** Honourable senators, it seems that we have a pattern — which, to be frank, concerns more than the amount of money. In real terms, it takes away from what has become a terrible embarrassment for all of us in public life — that is, the Sea King replacement.

There is a pattern evolving around our new Minister of National Defence, the Honourable David Pratt. He wanted to

rename JTF2 — perhaps he wanted to call them the Princess "Pratts." He wants National Defence Headquarters moved to his riding.

Honourable senators, we are now hearing about an untendered contract to a company based in his riding. Will the Leader of the Government in the Senate tell the chamber why the de facto lead systems integrator was given an untendered contract when we know that the data management system, the key to all systems within this overall project, will not even face a production readiness review until 2008? Why now?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I do not have information of the specific nature that the honourable senator is requesting. However, I shall take his questions and see if I can identify the items to which he is referring.

I do wish to repeat an answer that I gave at an earlier time, and remind the Senate that Minister Pratt, the Minister of National Defence, has said that he has recused himself from any decision with respect to the movement of the Department of National Defence into any location in his riding. He has assigned the responsibility for that recommendation to the cabinet to Minister Guarnieri.

In particular, Minister Pratt has advised that his only concern is with the security of the present location adjacent to the Rideau Centre, which is a large shopping centre.

### POSSIBLE TRANSFER OF HEADQUARTERS

**Hon. J. Michael Forrestall:** Honourable senators, surely the minister is not suggesting that the Department of National Defence has the amount of money that has been suggested with respect to the purchase of the JDS Uniphase building.

I am not trying to suggest that that is not meaningful or that it is clear evidence of sticky fingers, or anything like that. We are about to lose half a dozen good military bases, including Senator Rompkey's beloved Goose Bay. We have been losing bases at the rate of four or five a year for the last 10 years. Surely, something can be put in place to stop this. There is no more need to spend the amount of money that is currently being discussed on relocation of DNDHQ than there is a man in the moon.

**Hon. Jack Austin (Leader of the Government):** The honourable senator knows that no decisions have been taken. These are discussions only. Who knows when decisions will be taken with respect to the removal of the headquarters or at what time that might happen.

As I said previously, the bases that were specifically mentioned earlier by Senator Forrestall are not being closed.

**Senator Forrestall:** Will they remain open?



## UNITED NATIONS

## PROPOSED UNIVERSITY FOR PEACE CENTRE

**Hon. Douglas Roche:** I know the Leader of the Government in the Senate followed closely the visit of the Secretary-General of the United Nations, Mr. Kofi Annan, to Ottawa this week. I am sure he noted, as did I, the sustained and prolonged applause that greeted Mr. Annan when he rose to speak in the House of Commons. Even before the man opened his mouth, the applause went on and on. I believe that reflects the deep sense of value for the United Nations that is held in our country.

In that context, could the Leader of the Government in the Senate take a moment to reflect on the meaning of Mr. Annan's visit to Canada at this time and its possible influence on our foreign policy?

Further, in his speech in the House of Commons, Mr. Annan referred to the new University for Peace Centre that will be housed in Toronto. Mr. Annan said he hoped that that centre would enable Canada to make an even greater contribution to UN conflict prevention and peace building.

• (1450)

Could the Leader of the Government tell us more about this university for peace centre? Will it be a place where students can go to classes? Will it be a clearing centre for information? What exactly will it be?

I would welcome if the leader would undertake to send me as much detailed information as possible, when it is available, because I am interested in studying this matter closely.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I welcome the question. Clearly, to begin with, there is an enormous respect for Mr. Annan. As Secretary-General, he has devoted his professional life — and far more than that — to the institution of the United Nations and the values for which it stands. His success is acknowledged by the fact that he is serving a second term, with the unanimous approval of the members of the United Nations. I believe he typifies the hopes and aspirations of developed and developing countries for the success of that institution.

For Canadians, the United Nations remains a fount of our international policy and our commitment to multilateralism. Canada is not a great power, but it is a greatly valued power in the world. As all honourable senators know, the United Nations is an institution to which we have made a substantial contribution right from its inception, with the very able and conceptual work of John Humphreys, and right up to this time.

The institution has seen some of Canada's finest foreign policy achievements. For example, when Lester B. Pearson was Secretary of State for External Affairs, we saw the success of Canadian diplomacy in Suez. We have seen the Right Honourable Paul Martin's successes in breaking the membership logjam in the United Nations, as well as in setting up a peacekeeping force in Cyprus, which I believe was fundamental in preserving the peace between Greece and Turkey, which otherwise could have created a very great problem.

I know the other side does not want me to go on too long on this subject. However, I know the honourable senator and I are very interested in this topic.

The United Nations has fostered the idea of a university for peace to be in several sites. There is a site in Tokyo, Costa Rica and there may be sites in other places.

The Honourable Maurice Strong heads the University for Peace for the United Nations and has proposed a site in Toronto. Its role will be to foster United Nations' values and the multilateral process. It will be, at least as far as I know, a centre of excellence in this aspect of foreign affairs, bringing scholars from other parts of the world to meet Canadian scholars, officials, parliamentarians and academics. I do not believe that it will be a regular teaching institution but, rather, what is known as a think-tank.

I will forward additional information to the honourable senator when I can obtain it.

RWANDA—LACK OF SUPPORT FROM KOFI ANNAN  
AS UNDER-SECRETARY-GENERAL

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I would like the Leader of the Government in the Senate to clarify whether or not the Government of Canada subscribed to the position adopted by Kofi Annan when he was the Under-Secretary-General and abandoned General Dallaire in Rwanda?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I believe Senator Kinsella is misinformed if he believes that the Secretary-General carries the responsibility for that particular decision.

One of the great weaknesses of the United Nations is that the Secretary-General and the Under-Secretary-General cannot act except with the authority of the Security Council. If the Security Council does not take action, their hands are tied. Thus, the blame belongs elsewhere.

## ROYAL CANADIAN MOUNTED POLICE

PROPOSED INVESTIGATIVE UNIT  
TO COMBAT HUMAN SMUGGLING

**Hon. A. Raynell Andreychuk:** Honourable senators, perhaps at a later date I will ask the Leader of the Government in the Senate why this proposed institute could not be combined with Pearson College which already has the infrastructure in place.

At the moment, I would like to ask another question of the minister. Justice Minister Irwin Cotler has said that the Criminal Code will be reviewed to toughen human smuggling laws and that an RCMP human trafficking investigative unit will be created in an effort to crack down on this growing problem. The RCMP's head of border security has said that the resources for this new unit will be redirected from its immigration and passport sections, which may result in a reduction in the number of these sections across Canada.

In January, an RCMP officer with British Columbia's Integrated Border Enforcement Team was quoted as saying, "The main difficulty in trying to get a handle on this activity is a lack of people on the ground. However, taking resources from already understaffed areas may worsen the situation as a whole."

Could the Leader of the Government in the Senate tell us if the government will provide additional resources for this new unit that will not undermine the RCMP's manpower and services in other areas and will not undermine in any way the immigration and passport sections?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I will undertake to add to the information the chamber has on the issues raised by honourable senator.

**Senator Andreychuk:** Honourable senators, the smuggling problem is a horrific international problem. Every time there is a problem identified by the United States, Europe, Africa — all countries have this problem — Canada's approach seems to be to say that we can pass a law that will solve the problem, when in fact those who are in the business of smuggling people know how complex and difficult the problem really is. The criminal approach sometimes criminalizes the victims even more.

Are we undertaking an overhaul of our administrative operations and management to ensure that human smuggling is brought under control, or will we simply pass a law?

**Senator Austin:** Honourable senators, I am as concerned as my honourable friend with respect to the questions raised concerning the smuggling of human beings. Obviously, this is an incredibly complex and difficult issue. Canada has been the victim of such activity. The response mechanisms of the government are partially known. I will seek additional information, but I do not believe that the dichotomy suggested by the honourable senator is a real one.

## BUSINESS DEVELOPMENT BANK

### QUEBEC SUPERIOR COURT RULING EXONERATING FORMER PRESIDENT

**Hon. David Tkachuk:** Honourable senators, in January, Mr. Justice André Denis handed down a decision in *Beaudoin v. the Business Development Bank of Canada* in favour of François Beaudoin. The judgment called for the bank to pay his severance pay and his pension. Although it would seem to be fairly straightforward, Mr. Beaudoin's lawyers report that the BDC is still haggling over details. Can the Leader of the Government tell us when Mr. Beaudoin will receive what is owed to him by the Business Development Bank of Canada?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I will make inquiries of the Minister of Industry.

**Senator Tkachuk:** Can the Leader of the Government tell us if the government has made a decision on issuing a formal apology to Mr. Beaudoin for the atrocious manner in which he was treated?

**Senator Austin:** If an apology is required, perhaps it should be given from another source.

**Senator Tkachuk:** What source would that be?

**Senator Austin:** There are certain persons mentioned in the judgment of the Hon. Mr. Justice Denis. They are said to be persons who have not acted with propriety. Perhaps that would be the place for an apology to be based.

• (1500)

## ROYAL CANADIAN MOUNTED POLICE

### CONFIDENTIAL INFORMANT STEVIE CAMERON— COST OF INVESTIGATING LEADS

**Hon. W. David Angus:** Honourable senators, startling court documents released recently reveal that, since 1988, the RCMP has been receiving information from reporter Stevie Cameron who, despite her previous adamant denials, was in fact at all material times the RCMP's confidential informant number A2948. Honourable senators, while the RCMP was using this so-called information, probably of dubious validity if not false and misleading, to harass and tarnish the reputation of former Prime Minister Brian Mulroney and his family and friends, Ms. Cameron was using the same information, sometimes described by her as "pathetic scraps," to write a book for her own personal gain. Can the Leader of the Government in the Senate please tell us how much money was spent by the RCMP, the Department of Justice and all other government departments and agencies investigating the leads provided by Stevie Cameron?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, obviously I do not have such information, but I will take the question as notice and try to provide the information.

**Senator Angus:** Honourable senators, I am not sure that it would be so obvious that the leader would not have that information. Can the Leader of the Government in the Senate assure us that no information was purchased by the RCMP from Stevie Cameron?

**Senator Austin:** Honourable senators, to the extent the question is valid, I will try to obtain an answer to it.

### CONTINUATION OF AIRBUS INVESTIGATION— COMMENTS BY COMMISSIONER

**Hon. W. David Angus:** Honourable senators, in 1995, inspectors working on the Airbus matter came to the conclusion that there was not enough evidence to sustain further investigation. Now, according to information released in the past few days, Commissioner Murray, head of the RCMP, said at the time that he wanted "the investigation continued." Can the Leader of the Government in the Senate please tell us why the Commissioner would want the investigation continued if there was not enough evidence available to base it on?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, there is no way I can provide an answer to that question. It asks for the state of mind of a person whom I do not know. I would suggest to Senator Angus that he is as good at speculation as anyone I know in this chamber.



## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, I have the honour to present six delayed answers to oral questions posed in the Senate, five of them posed by the Honourable Senator Keon and one by the Honourable Senator Oliver. The delayed answers to the five oral questions by Senator Keon are on a question posed on February 4, 2004, regarding the possibility of providing assistance to Asia in the fight against avian flu; a question posed on February 10, 2004, regarding inoculation of children against common diseases; a question posed on February 7, 2004, regarding plans for pandemic influenza; a question posed on February 19, 2004, concerning the ratification of the International Framework Convention on Tobacco Control and the restoration of funding to the tobacco control program; and a question asked on February 25, 2004, regarding shortages of doctors and nurses. I also have the honour of presenting a delayed answer to an oral question posed in the Senate on February 25, 2004, by Senator Oliver concerning the Employment Equity Program, embracing change.

## HEALTH

### AVIAN FLU—DEPLOYING OF SCIENTIFIC AID TO ASIA

*(Response to question raised by Hon. Wilbert J. Keon on February 4, 2004)*

Health Canada has been working very closely with the World Health Organization (WHO) to support the investigation of avian influenza H5N1 in Asia.

Two representatives from Health Canada travelled to Thailand to assist WHO with its investigation and response. The Government of Canada will entertain requests for additional scientific expertise to assist Asia in their efforts to contain this disease. The WHO advises us what level of assistance is required.

In addition, Health Canada's National Microbiology Laboratory (NML) has also offered to deploy its mobile laboratory with two laboratory experts to the region because many of the affected countries have little in the way of laboratory testing capacity. The WHO has accepted the offer of assistance.

There are several reasons why Health Canada has been actively involved in international initiatives:

- Canada is quite advanced in pandemic influenza planning and is seen by WHO as a leader in this area.
- Few countries have the capability of fielding a fully equipped mobile laboratory and few can provide diagnostic testing as comprehensive as the NML's. This capacity was put in place by the NML to enhance preparedness for responding to outbreaks and bioterrorism after September 11, 2001. Two fully operational laboratories are available for very short notice deployment.

- The scientific reputation of the NML and the regard for its scientists are growing internationally and the NML's experience with SARS is the largest in North America and one of the largest in the world.

Direct international involvement in the response to infectious disease outbreaks is a significant way in which Canada can contribute to global health security and provide leadership in global public health. Not only does the control of disease outbreaks overseas help to prevent these epidemics reaching Canada, such activities contribute to Canadian preparedness by giving scientists and public health practitioners field experience that is invaluable preparation for domestic events.

### INOCULATION OF CHILDREN AGAINST COMMON DISEASES

*(Response to question raised by Hon. Wilbert J. Keon on February 10, 2004)*

In the absence of a comprehensive provincial/territorial immunization registry network, Health Canada uses surveys to monitor national immunization coverage. From the data available to Health Canada, national trends do not appear to indicate a decrease in immunization.

The results of the 2002 survey revealed the majority of parents, over 98 per cent, stated their child had received at least one immunization. A small proportion of respondents, less than 1.5 per cent, stated that their child had never been immunized, and vaccine safety was the most frequently stated reason. Public education on the benefits and risks remain a priority for Health Canada.

From parental records, it is estimated that 94.5 per cent of 2-year-olds had received at least one dose of measles, mumps and rubella vaccine at the recommended age of 12 months.

Health Canada, through the National Notifiable Disease Reporting system, the Canadian Pediatric Surveillance Program, and the Immunization Monitoring Program Active monitors the incidence of vaccine preventable disease in Canada.

Surveillance data for these diseases indicate that the numbers are at a record low for most vaccine preventable diseases for which routine infant immunization is given and, in 2003, there were only 15 cases of measles, all imported from another country or linked to imported cases.

However, in 2000, outbreaks in Canada resulted in approximately 200 measles cases, in closed populations or religious communities who refused immunization.

Today, largely due to our nation-wide immunization programs, infectious diseases cause fewer than 5 per cent of deaths in Canada. Providers and public health planners need accurate immunization records in order to maintain the high immunization coverage rates necessary for continued protection against vaccine preventable diseases. This task is becoming more complex due to a number of factors in the

Canadian environment, including: multiple immunization providers; an increasingly mobile population; variations in immunization schedules depending on the province/territory; and primarily paper-based immunization record keeping.

**PLANS FOR PANDEMIC INFLUENZA—  
STATUS OF VACCINE SUPPLIER—  
POSSIBILITY OF SPLITTING SUPPLIER CONTRACTS**

*(Response to question raised by Hon. Wilbert J. Keon on February 17, 2004)*

The contract signed between the Government of Canada and Shire BioChem Inc. of Laval, Quebec for the procurement of vaccine during an influenza pandemic requires that the Contractor develop production capacity in Canada and maintain this capacity for the duration of the contract period. This contractual obligation is also binding on any successors or permitted assignees of Shire should they decide to sell their Biologics Division. Additionally, the contract contains significant financial security which further protects the interests of Canada should the Contractor fail to perform for any reason.

Shire has assured us of their intention to fully honour the terms of our contract regardless of any plans that they may have for the disposition of their Biologics Division, and we remain confident in Shire's ability and desire to so honour their commitment. The Canadian Pandemic Influenza Plan does, however, require that the federal government develop contingency plans and in keeping with that responsibility, Health Canada is currently exploring alternative options to address issue related to vaccine supply so as to further ensure that the interests of Canadians are protected against any eventuality.

The influenza vaccine is one of approximately 50 vaccines that Public Works and Government Services Canada purchases on behalf of the Federal/Provincial/Territorial governments for use in public health campaigns. There are multiple contracts in place for Canada's vaccine requirements and these contracts are awarded following competitive Requests for Proposal.

The security of supply for influenza vaccine in Canada is ensured by having two capable manufacturers of the vaccine under contract.

**TOBACCO CONTROL PROGRAM**

*(Response to question raised by Hon. Wilbert J. Keon on February 19, 2004)*

Two areas of questioning relating to tobacco control were raised. The response to the questions will outline steps Canada is taking to further the implementation of the Framework Convention on Tobacco Control, and the profile and funding of tobacco control in Canada.

**The Framework Convention on Tobacco Control**

The Framework Convention on Tobacco Control is the first international public health treaty negotiated under the auspices of the World Health Organization. It supports and affirms Canada's federal, provincial, and territorial tobacco control efforts by reflecting Canadian tobacco control initiatives. Canada played a leadership role in the development and negotiation of the Convention and signed it on July 15, 2003. To date, over 92 countries have signed, and nine have ratified it. In order to come into force, the Convention must be ratified by 40 countries.

Canada is already substantially in compliance with the Convention because of the consistency between its obligations and our existing domestic initiatives. However, some statutory and regulatory amendments will be needed to bring Canada into full compliance. We are working to make the required amendments in order to ratify at the earliest possible time.

Throughout the negotiation process, Health Canada regularly consulted with the provinces and territories. As a result, they were in full support of Canada's early signing of the Convention. We are presently working with our provincial and territorial counterparts to ensure their continued support for Canada's early ratification of the Convention.

Canada will participate in the open-ended Framework Convention on Tobacco Control Intergovernmental Working Group, meeting this June to begin work on the mandate of the Conference of Parties. The primary function of the Conference of Parties will be to make the decisions necessary to ensure the effective implementation of the Convention.

**Profile and Funding of the Federal Tobacco Control Strategy**

Resignation of MACTC Members

The question included a reference to the resignation of four members of the Ministerial Advisory Council on Tobacco Control (MACTC).

Upon assuming the Health portfolio, Minister McLellan undertook a review of all departmental advisory councils, and that it was determined then that the structure and mandate of this council needed to be re-aligned in order to enable a more strategic approach.

Its current role is to provide advice to the Minister of Health and the Tobacco Control Programme on strategic issues relating to policies, legislation, and the research required for the effective implementation of the Federal Tobacco Control Strategy, as well as to provide advice on consultation and public engagement activities to ensure that Health Canada has access to the broadest base of stakeholder involvement possible.



While it is unfortunate that the four members perceived the changes to the Council's Terms of Reference as limiting, it is acknowledged by other members that this council has a significant role to play in furthering Canada's tobacco control efforts. The members of the Council bring with them considerable knowledge and access to this knowledge is invaluable to the Minister of Health and the Tobacco Control Programme. In fact, the Honourable Pierre Pettigrew, Minister of Health, recently demonstrated the importance of the Council, as well as his support for it, by attending the Council's most recent meeting on February 20, 2004.

#### Funding Under the Federal Tobacco Control Strategy

Given the pressures of emerging and unfunded issues, Health Canada has indeed used reallocation as one mechanism for addressing new priorities. As of fiscal year 2002-2003, \$13 million in funding has been reassigned permanently from the tobacco control budget. This reallocation will make it possible for the Government of Canada to meet its legislated obligations under the *Canadian Environmental Protection Act*, as related to the assessment of new and existing chemicals and substances and their effects on humans and the environment.

This reallocation will not jeopardize or diminish the commitment to reducing tobacco abuse in Canada. While the Canadian Tobacco Use Monitoring Survey, conducted by Health Canada and Statistics Canada, shows that the national prevalence is at an all time low of 20 per cent, we cannot waver. Evidence has demonstrated that when tobacco control efforts slacken, prevalence rises.

Since the implementation of the Federal Tobacco Control Strategy, a comprehensive and integrated approach has made Canada a world leader in tobacco control. In addition to assuming a leadership role in the development of the World Health Organization's Framework Convention on Tobacco Control, Canada has made tremendous strides in several areas by:

- successfully defending the *Tobacco Act* and its Regulations in the lawsuit instigated by the three major tobacco manufacturers;
- implementing world-precedent-setting graphic health warning messages on tobacco product packaging;
- developing new smoking cessation tools, as well as a national network of quit lines;
- developing toolkits for tobacco retailers, for Canadian workers attempting to implement smoke-free workplaces, and for young people advocating for smoke-free public places; and
- conducting several mass-media campaigns to generate and increase awareness among all Canadians of the impacts of tobacco and second-hand smoke and of the means to quit smoking.

Yet, we are not wavering. Domestically, the Federal Tobacco Control Strategy remains sufficiently well funded to sustain our approach and successes.

In addition to our traditional focus in the areas of prevention, cessation, and protection, we are investigating the enhancing of regulations to restrict youth access to tobacco; looking at how to reduce tobacco promotion to youth; designing second generation health warning messages for tobacco product packaging to accommodate less literate Canadians; and researching reduced-ignition propensity cigarettes as a means of reducing the number of tobacco-related fires in Canada each year.

Internationally, in order to support Canada's leadership role during the negotiations and to maintain Canada's international contribution on this important file, we will be seeking early ratification of the Framework Convention on Tobacco Control.

Given that tobacco remains the most preventable cause of more than 45,000 deaths and related diseases in Canada, profound attention and effort continues to be directed at tobacco control.

#### ACCESS TO CARE

*(Response to question raised by Hon. Wilbert J. Keon on February 25, 2004)*

Health Canada recognizes the need to deal with physician and nursing shortages and is a key player in a number of important national initiatives related to recruitment and retention of physicians and nurses, including foreign credential recognition.

Health Canada co-chairs the Federal/Provincial/Territorial Advisory Committee on Health Delivery and Human Resources (ACHDHR) that undertakes collaborative pan-Canadian health human resources planning. As a result of planning efforts over the past few years, there has been a significant increase in enrolment in Canadian medical schools.

Since mid-1999, the provinces have increased undergraduate enrolment by over 300 positions and postgraduate enrolment by more than 400 seats. The effects of these increases on physician supply should begin to appear this year.

In October 2000, Ministers of Health endorsed *The Nursing Strategy for Canada*, which contained initiatives geared toward the education and recruitment of new nurses, retention of the existing and future nursing workforce, and research to aid in nursing resource planning.

In September 2003, the ministers of health released *A Report on The Nursing Strategy for Canada*. This report confirms that most of the mechanisms to achieve the strategies are in place and considerable progress has been made as a result of the coordinated and collaborative

approach taken by jurisdictions and interested parties. The report indicates a 42 per cent increase in nursing education seats across the country over the past few years. The strategies underway to improve recruitment and retention are beginning to close the gap.

In June 2002, the Advisory Committee on Health Human Resources (ACHHR) identified foreign credential recognition as a priority and as an initial step, established a Task Force to address the integration of international medical graduates (IMG) into the Canadian physician supply. The recommendations of the Taskforce were approved by the Conference of Deputy Ministers of Health on December 9th, 2003. A symposium to announce the recommendations of the Canadian Taskforce on Licensure of IMG and to address the implementation of those recommendations was held in Calgary on February 29 and March 1, 2004. The final report of the Taskforce was released at this symposium.

The Government of Canada is contributing over \$4 million dollars to support the implementation of the Taskforce. Most of the funding — \$3.7 million — comes from Health Canada with the remainder coming from Human Resources and Skills Development Canada, Industry Canada and Citizenship and Immigration Canada. One of the key deliverables of the symposium was the development of a research agenda for evaluation of the Taskforce initiatives. The research agenda will be used to evaluate the IMG strategy over the long term. The implementation of the recommendations and engagement of key stakeholders will have a direct impact on physician resource planning and will help provincial and territorial governments to address physician shortages in their jurisdictions.

Recognition of foreign credentials was identified in the Speeches from the Throne in 2001, 2002, and in February 2004. The most recent Speech from the Throne commits the Government of Canada to ensure speedier recognition of foreign credentials and prior work experience.

On December 12, 2003, the Honourable Hedy Fry was appointed Parliamentary Secretary to the Minister of Citizenship and Immigration with special emphasis on foreign credentials. On March 1, 2004, Ms Fry spoke at the IMG Symposium in Calgary and made a funding announcement outlining the Government of Canada's contribution to the task force's recommendations.

The process used by the Canadian Task Force on Licensure of IMG is seen as a successful template that could be replicated for other health professionals. The ACHDHR recently held an inaugural Task Force meeting on the recognition of foreign credentials for international educated nurses (IEN) and will commence a task force in the new fiscal year for recognition of foreign credentials for allied health professionals.

The Government of Canada will continue to collaborate with the provincial and territorial governments, who are primarily responsible for health delivery and health human resources, and with medical, nursing, and other provider

groups, and the public to identify population needs for health human resources, and to develop short- and long-term strategies to ensure the sustainability and accessibility of the publicly funded health care system across Canada.

## TREASURY BOARD

### PROGRAMS TO PROMOTE VISIBLE MINORITIES

*(Response to question raised by Hon. Donald H. Oliver on February 25, 2004)*

- The Government has introduced a program to achieve the advancement of visible minorities into the executive ranks. In June 2000, the Government endorsed the Embracing Change Action Plan prepared by the Task Force on the Participation of Visible Minorities in the Federal Public Service and provided funding support of \$ 25.8 million over three years.
- The Action Plan established 1-in-5 benchmarks for Visible Minority participation in public service recruitment and promotions by 2003 and 2005, including promotion into the executive category.
- There has been significant progress. Overall, in the three years since the Government endorsed the Action Plan, the number of Visible Minority employees has increased by over 4000, while their number in the executive category has increased from 103 to 177. However, much more progress is required if the Public Service is to meet the 1-in-5 benchmark for Visible Minority entry into the executive category by 2005.
- The government remains committed to the Embracing Change Action Plan and to the broader goal of establishing the Public Service of Canada as a representative and inclusive national institution, with an enhanced presence of Visible Minorities in the executive category.
- The Embracing Change initiative is continuing. The government remains committed to the principles set out in the Action Plan.
- The Employment Equity — Embracing Change Support Fund (EE-ECSF) supported 39 initiatives, totalling \$25.8 million, before it sunset on March 31, 2003. However, the Embracing Change initiative is about more than just money. Notwithstanding the conclusion of the EE-ECSF, support continues to be available for initiatives designed to sustain the momentum for improving the participation of Visible Minorities in the Public Service of Canada.
- While all investments are under close scrutiny, investing in the development of our people and building a representative public service continues to be a priority of this government.



## ORDERS OF THE DAY

### ASSISTED HUMAN REPRODUCTION BILL

#### THIRD READING

##### On the Order:

Resuming debate on the motion of the Honourable Senator Morin, seconded by the Honourable Senator Gauthier, for the third reading of Bill C-6, respecting assisted human reproduction and related research.

**Hon. Wilbert J. Keon:** Honourable senators, I rise today to speak on third reading of Bill C-6. The Standing Senate Committee on Social Affairs, Science and Technology heard from many individuals and organizations with contrary opinions on this bill. Some strongly opposed it, others urged its passage. The positions brought forward by all of our witnesses were made with passion and eloquence, and I thank them for their testimony.

All honourable senators are aware that this bill is one in a long line of unsuccessful pieces of legislation dealing with assisted reproduction that have been brought forward over the last decade. The bill now before us addresses such issues as human cloning, gamete donation and embryonic research. It has been said many times that Bill C-6 is not a perfect bill, and I agree with that statement. However, it may very well provide the best possible compromise at this time.

When this bill was first introduced, my original thoughts were that it should have been split into two separate bills, or maybe more. I felt it was badly drafted and was trying to do too many things. However, circumstances have prevented the committee members from attempting to split the bill or amend it. In his appearance before the committee, the Minister of Health told us that he would not accept amendments dealing with embryonic stem cell research and would not be receptive to splitting the bill.

All honourable senators are no doubt aware that there is a generally acknowledged feeling that amending this bill in the Senate will be tantamount to killing it. If it has to go back to the other place, it is highly likely that it will not come out again, due in no small part to the timeline surrounding the expected federal election. That was the political reality in which the committee studied this bill, and it is the reality in which all honourable senators must decide whether or not to give their final approval.

Those of us who viewed this bill with uncertainty must now weigh whether we can support it despite our reservations. Is it better to have this imperfect bill or none at all? After much careful thought, I have concluded that our society must finally make progress in this matter, and I will support the passage of Bill C-6.

There is currently no comprehensive legislative framework applicable to assisted reproduction technologies and related research practices in our country. In the case of some controversial practices, such as human cloning for reproductive purposes, Canadian scientists have held themselves to a voluntary

moratorium. We can no longer afford to put off this issue or expect that it will be dealt with at a later date. Science has proven, time and time again, that it moves quickly, and it does not wait for governments to catch up. In passing Bill C-6 without amendment, I believe the Social Affairs Committee is showing that it fully understands that if we wait for widespread agreement, there may never be legislation covering these activities.

One of my major concerns regarding the current application of assisted human reproduction practices is that they have grown in use outside the Canada Health Act, without regulation and without any assurance that people will have equal access to these treatments. I have been contacted by many people about this bill who have related their experience about assisted reproduction. They have made it very clear that, in their opinion, these practices are strictly for the rich. If you do not have a lot of money, you cannot gain access. This type of inequality should not be supported in our country. In passing Bill C-6, I think we will ultimately move closer to having reproductive technologies fall under the Canada Health Act.

Another concern I have with the current environment surrounding assisted reproduction deals with the standardization and regulation of services. Right now, there are wide discrepancies between clinics with regard to their success rates, how much people are charged for their services, and how much donors are reimbursed for their gametes and surrogacy services. This bill will create a much-needed regulatory body, the assisted human reproduction agency of Canada. The agency will oversee such practices as in vitro fertilization and will provide licences to clinics and researchers. With this new agency and a set of regulations that must be adhered to by all concerned, it is expected that these wide variances will come to an end.

• (1510)

Although the majority of witnesses who appeared before the committee urged the passage of this bill, committee members wanted to acknowledge the concerns of many other witnesses who did not support the bill in its current form. Many of these concerns echoed the unease that some committee members felt as well.

I support the observations the committee attached to its report on this bill to this chamber. They provide a great deal of instruction on many of the controversial issues that the legislation addresses.

Another area of personal concern in this bill dealt with the donor registry and how the issue of privacy is handled. The committee heard from witnesses who believed strongly that the children created through donor gametes should have access to their genetic health information. It appears that this issue can be managed through the appropriate database firewalls. I hope that all these issues and more will be part of the three-year review of the legislation. The review will provide us with a way to evaluate the impact these new rules will have on assisted reproduction technologies, and it will allow us to correct any flaws that have arisen along the way. The committee has also observed that subsequent three-year reviews of the act should also be required. Given the nature of scientific development, this particular suggestion should be acted upon.

Honourable senators, under this bill, the commercialization of reproductive material and capabilities would be prohibited. This reflects the general feeling among Canadians about the commodification of human life, tissue or organs. Although I did not agree with the House of Commons amendment allowing surrogate mothers to be reimbursed for loss of income during the pregnancy if continuing to work poses a threat to the surrogate or the unborn child, the observations attached to the bill recommend a review in three years of the appropriate level of compensation for surrogacy.

Arguably, the most contentious part of this bill deals with embryonic research, especially embryonic stem cell research. With this legislation, Canada would avoid a situation similar to what has occurred in the United States where there is one set of rules for privately funded embryonic research and another set for research using federal dollars. Embryonic research would be permitted in Canada but only under specific conditions and with full consent of the donors.

The committee agreed that embryonic research, regardless of the moral implications attached to it, must be strictly regulated. To that end, the committee observed that a permanent embryo research advisory panel should be created in order to — and I quote from the regulations — “provide exemplary oversight to all embryo research.”

I recognize that all of these regulations still do not provide comfort to those who strongly object to the research that results in the destruction of the embryo, specifically stem cell research. To paraphrase the committee's observations on this particular issue, the bill will limit the harm done even if embryonic research cannot be realistically prohibited. This type of research has been conducted in Canada for almost 20 years. If it is going to continue, it is past time that we regulate it.

In his appearance before the committee, Archbishop Terrence Prendergast of the Canadian Conference of Catholic Bishops highlighted the challenge faced by those of us who must reconcile our observations about this bill to the need to end the legislative vacuum in this country. The archbishop said:

I think each person who will act, informed by faith, informed by reason and making the proper decision — I do not think anyone can reproach that person.

With reason, faith and careful consideration of this bill, I hope all honourable senators will agree with the committee that while this is not a perfect bill, it represents the best we can do at this point in time.

**Hon. Jim Munson:** Honourable senators, I would like to speak in support of Bill C-6 respecting assisted human reproduction.

Bill C-6 is an important piece of legislation because it protects women and couples who are making their way through the difficult decisions and treatments related to infertility. It is also important legislation because it will determine, to some extent, the success of our government's innovation agenda.

Across Canada, there are scientists ready to get to work on stem cell research, research that promises new treatments for diseases that affect hundreds of thousands of Canadians. Our brightest minds are waiting for us to do our work so that they can get down to their work.

Make no mistake: Bill C-6 will not unleash mad scientists and lead to unethical genetic experiments. This legislation is balanced. It respects the values of Canadians by banning human cloning, sex selection, commercial surrogate motherhood contracts, and the sale of sperm and eggs. This bill sets out rules on embryonic stem cell research. It puts in place a legislative framework within which scientists and researchers will work to open the door to new knowledge.

Stem cells hold great promise for the regeneration and repair of tissues and organs damaged by trauma or disease. We must not block the way and prevent efforts to improve the quality of life of the more than 10,000 people over 65 with Alzheimer's disease, the more than 100,000 people with Parkinson's disease, the 37,000 Canadians with spinal cord injuries, and the countless people with juvenile diabetes, muscular dystrophy, osteoarthritis or heart disease.

This bill opens the door to a better quality of life for so many Canadians. It is not for us, senators, to slam that door shut.

Bill C-6 also opens a door to our future by making good on our commitments to make Canada a hub of innovation and research and development. Canada has already made many contributions in the area of stem cell research which have improved bone marrow transplantation in the treatment of leukemia and other blood disorders, as well as improving skin grafts for burn victims and helping grow new corneas for the visually impaired. We have the people and the resources; it is up to us, senators, to give them the go-ahead.

Canada has many more contributions to make and it will take many years of research to get there. Three out of four Canadians from all religions, political stripes, income levels, education and regions of the country support the use of stem cells derived from spare embryos for medical and scientific research. Embryonic research will not disappear; it will simply move to other shores along with some of our best and brightest researchers. If we do not pass this bill, we will be taking a step backward.

Honourable senators, this bill has been discussed and debated for more than 10 years and has been the subject of consultation at all levels. Everyone has had a chance to be heard. Now is the time to act. I urge you to support innovation; I urge you to support this bill.

I want to personally thank Senator Morin for being a beacon and showing a gentle but determined leadership on this historic piece of legislation.

• (1520)

[Translation]

**Hon. Madeleine Plamondon:** Honourable senators, I would like to express a few thoughts on Bill C-6.



I am not a regular member of the committee that reviewed this bill. However, I attended several of the committee's meetings. The committee reviewed the various aspects of this bill, which are very important, particularly for women.

Thanks to the excellent work of the committee's researchers, I benefited from the best expertise in Canada and I had the opportunity of hearing very eloquent and enlightening testimonies, from a humanitarian point of view. At times, these presentations were deeply moving.

We heard the views of the industry and those of various denominations through a rabbi, an archbishop and a Muslim. We also had the honour of hearing people who were directly affected by this issue and who testified as individuals.

However, it would have been good to hear more stakeholders on ethical issues. It would also have been useful to get the resume of industry officials. We did make a request in that regard, but it was ignored. This would have allowed us to establish a link between the industry's arguments and the individuals who were defending certain views.

The research on cloning could have been the object of a separate bill. However, I support Bill C-6. I share the comments made by my colleague, the Honourable Senator Roche. I also feel that the agency should conduct strict monitoring with respect to embryonic research and genetic alteration.

[English]

Finally, the drafting of regulations will be crucial. Listening to Senator Roche yesterday, and given the fact that he retires soon, I hope the new agency that will be created will count upon his expertise and good judgment.

**Hon. Marilyn Trenholme Counsell:** Honourable senators, I have been privileged to attend meetings of the Standing Senate Committee on Social Affairs, Science and Technology where Bill C-6 has been studied — where Canadians have spoken.

Senator Morin has given us, honourable senators, a profoundly wise summary of the support offered to this bill by the scientific and medical community. He has, indeed, included messages of uncertainty and, yes, disagreement from those who do not support this bill fully, some not at all. Today we have listened to the similarly wise words of Senator Keon.

Senator Roche has given us, honourable senators, another profoundly thoughtful summary of those who see in this bill a trespass of faith, of moral issues, and of that uncertainty of which I spoke; yet, in his wisdom and with great generosity, he is willing to support the bill.

[Translation]

The same goes for the Honourable Senator Plamondon.

[English]

Among the many voices that I heard, I was touched most deeply by parents for whom this bill gave enormous reassurance,

[ Senator Plamondon ]

by children for whom this bill validated their very existence, and by patients who saw a ray of hope in this bill for disease prevention, and even cures not yet possible or imagined. These voices were felt poignantly by all honourable senators present at the hearings. Thus, too, were they felt by religious leaders and scholars, with differing views.

[Translation]

Bill C-6 is a bill for Canadian families who hope to see their dreams become reality with the help of assisted reproduction. This method of reproduction is protected by a just law. It is based on fundamental principles offering the confidentiality, safety and confidence that are essential to regulate this process in 2004 and for the next three years.

The feelings of thousands of Canadian men and women have been respected in Bill C-6. That is why I would like to emphasize the importance of our consideration, at this time in the evolution of our ability to help each one of us to have a better quality of life and greater hope for health and for the generations to come.

[English]

Bill C-6 will change, likely in 2007, but in 2004, the bill as it stands is our best effort. I hope all honourable senators will support Bill C-6.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** It was moved by the Honourable Senator Morin, seconded by the Honourable Senator Gauthier, that this bill be read the third time.

Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

**An Hon. Senator:** On division.

Motion agreed to and bill read third time and passed, on division.

## PUBLIC SAFETY BILL 2002

### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Christensen, for the second reading of Bill C-7, to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I have about 11 minutes left in my time for the debate at second reading, having commenced yesterday afternoon. At that time, I was attempting to underscore the important interventions that have been made by several honourable senators on both sides of the aisle who have expressed grave concerns and have said that this legislation must be examined to ensure that the proper balance exists between the needs of the state in the area of security and the needs of citizens not to have their civil liberties and human rights — their political and civil human rights in particular — abrogated by this kind of special measures legislation.

The question was raised as to the most effective way of examining the bill in detail, clause — by clause. There was a query as to whether this bill should be examined with an emphasis on security and defence. If so, then the Standing Senate Committee on National Security and Defence may be the appropriate committee to which the bill should be referred. If the emphasis is to be on transportation issues and all of the elements that are needed given Canada's interconnectedness with the United States and Mexico, then perhaps it should be examined by the committee that has that expertise.

Others argued that the Standing Senate Committee on Legal and Constitutional Affairs would be the most appropriate committee if the emphasis is on, as I believe it should be, the special measures given to the state. We must ensure that we have the appropriate safeguards without foreclosing on what the best model would be for those safeguards, whether in the form of a sunset clause, as some have suggested, or a form of enriched oversight that runs concurrent with the operation of the special powers provided by the legislation. We do know that the Standing Senate Committee on Legal and Constitutional Affairs has a track record in dealing with those kinds of human rights and civil liberty issues.

• (1530)

Whatever the decision of the chamber as to which committee it is sent, I would like to encourage our colleagues on that committee to give special focus to this examination, ensuring not only that the bill has the kind of balance that Canadians want but also that it provides a margin of comfort to Canadians from a civil libertarian point of view. If necessary amendments should be made to the bill, let us have them dealt with up front.

There are various kinds of organizations that would encourage the committee that receives this bill for examination. The organizations that they should contact are Amnesty International, l'Association québécoise, des organismes de coopération internationale, the Canadian Association of University Teachers, the Canadian Arab Federation, the Canadian Bar Association, the Canadian Autoworkers Union, the Canadian Centre for Philanthropy, the Canadian Council for International Cooperation, the Canadian Council for Refugees, the Canadian Ethnocultural Council, the Canadian Labour Congress, the Centre for Social Justice, and organizations such

as Development and Peace, the Muslim Lawyers Association, National Organization of Immigrant and Visible Minority Women of Canada, the Civil Liberties Union of Canada, Rights and Democracy. I am sure there are many others.

I also would recommend respectfully that the committee consider having special witnesses who could inform our analysis of the bill in a very translucent way — Canadians of great experience and reputation in this area — such as the Honourable Warren Allmand, a former Solicitor General and past president of the International Centre for Human Rights and Democratic Development; the Honourable Ed Broadbent, who served as chairman of the Rights and Democracy Centre in Montreal; and human rights experts such as Gordon Fairweather, the Honourable David MacDonald, and even former Senator Lois Wilson. Perhaps the committee could look to those kinds of witnesses. I am sure Senator Andreychuk and others might be able to add to the list of important witnesses.

We must address that issue in committee. I have no difficulty with the general principle of the bill, but I know others have concerns, such as Senator Jaffer. We must look at this measure with a fine-toothed comb. Others may wish to make other suggestions. I am sure you will find the appropriate way of doing it.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I should like to respond to the Honourable Senator Kinsella. He raises important issues that are available to be canvassed. To the extent the committee wishes to follow the issue, it is obviously within their power to do so. With respect to the long list of witnesses, many of them, if not all of them, are worthy witnesses on the topic in question. Again, it will be the business of the committee to schedule appropriate witnesses for its hearings.

Yesterday, Senator Kinsella addressed the choice of committee. I should like to advise that, in the view of this side, the appropriate committee is the Standing Senate Committee on Transport and Communications. There are a number of transport issues in the bill. Senator Kinsella makes that clear in listing the witnesses that he suggests should be called. It is essentially for me personally, and for many on this side, to understand that all committees, whatever their orders of reference, under the rules or by direction of the Senate, can be given the capacity to understand in full the issues before them. Professional advisors are available, as are expert witnesses.

I have always been a bit concerned, honourable senators, with the idea that, somehow, the Standing Senate Committee on Legal and Constitutional Affairs is the "lawyer" of the Senate and the committee where legal issues should be dealt with. That is just not the case. Its terms of reference relate to legal and constitutional issues, but every committee will need advice on legal issues and appropriate professional advice is available. If we were to define the Standing Senate Committee on Legal and Constitutional Affairs as the "lawyer" of the Senate, we would have to break it down into as many as eight subcommittees in order to get our business done.



With that I hope honourable senators will support the bill at second reading and allow the Standing Senate Committee on Transport and Communications to begin its work next week.

**Hon. Anne C. Cools:** Honourable senators, I wish to put a question to the leader. I have been listening to him and I do not think for a moment that anyone would purport to believe that the Standing Senate Committee on Legal and Constitutional Affairs is the "lawyer" of the Senate. However, I cannot help but think that the bill in question does seem to embody a fair amount of what I would consider delicate constitutional questions. The Standing Senate Committee on Legal and Constitutional Affairs seems custom-made to receive this particular bill. I am sure that the Leader of the Government has told us on many occasions that the whole phenomenon of balancing the constitutional rights of individuals, of citizens against national security needs is enormous. The Standing Senate Committee on Legal and Constitutional Affairs seems to be the ideal committee to which this bill should be sent.

Could the leader reconsider if he is to move a motion right now? I am sure I saw the Chairman of the Standing Senate Committee on Legal and Constitutional Affairs here a moment ago and I have no doubt that he would be happy to receive the bill. I am a member of the committee and I can tell you that I would be happy to dedicate long hours of study to it. When that motion is moved, could we send it to the Standing Senate Committee on Legal and Constitutional Affairs? You need not fear, because I am not a lawyer.

**Senator Austin:** Honourable senators, I should like to thank Senator Cools for her view. Constitutional issues will arise in the course of the consideration of legislation. That is not, by definition, a subject that is dealt with only in the Standing Senate Committee on Legal and Constitutional Affairs. There are cross-cutting issues here. The Constitution may be relevant; other legal opinions may be relevant. However, transportation policy and the policy that relates to so many of the acts being amended, as proposed by Bill C-7, which require expertise in those areas of operating discipline, all apply. Therefore, in my view, the Standing Senate Committee on Transport and Communications is the appropriate committee for this bill.

• (1540)

**Senator Cools:** Senator Austin is saying essentially that the choice of committee is precisely that — a choice. Perhaps if we consult with senators here, we might discover that many senators think the appropriate committee is the Standing Senate Committee on Legal and Constitutional Affairs.

I have listened carefully to the Leader of the Government saying that it is six of one and half a dozen of the other. To that extent, the members of the Standing Senate Committee on Legal and Constitutional Affairs are quite practised in sorting out these intricate details. As such, perhaps they are the appropriate people

to receive this bill. A simple motion is all that would be required. The members of the Legal and Constitutional Affairs Committee would do an excellent job of studying the bill. Let our committee have it; I can promise that we will work hard on it.

**Senator Austin:** Just to respond, the Chair of the Standing Senate Committee on Legal and Constitutional Affairs has not requested of me that the bill be sent to that committee. I would suggest that the issue be decided by honourable senators when the sponsor of the bill speaks.

**Hon. A. Raynell Andreychuk:** Honourable senators, convention and past practice on government business is that committee choice is a leadership matter. Consultation between leaderships ensures the efficient utilization of issues and maximizes the expertise of senators.

I had agreed to take on the critic's role on the public safety bill. I am concerned about the balance and proportionality between our right to security and our civil liberties. As Senator Kinsella pointed out, a considerable number of people who have taken it upon themselves to monitor legislation, as good citizens should, have indicated that this would be more appropriately treated as a legal matter.

Further, this side has agreed that some aspects of the bill are absolutely essential, like putting into effect the international obligation, and the fact that we may need portions of that bill to ensure our security. We were never arguing that. That is the intent of the bill and we agree with it.

However, we have great concerns as to whether certain methods have gone too far without proper accountability and scrutiny. The government chooses the methods. We simply want to weigh the different perspectives. It would seem to me that we could be more efficient in our work if we concentrated on the areas of dispute from those of us who have studied the bill. That would have been more appropriately the Standing Senate Committee on Legal and Constitutional Affairs.

Secondly, a small minority in the Senate, namely the opposition, has been put in the untenable position of having to be at two committees at the same time. In future, there will be even fewer of us, unless there is a dramatic change in the leadership of this country. Our leadership and our opinion on how to efficiently manage this place should be taken into account. It seems to me we can address this bill much better in the Standing Senate Committee on Legal and Constitutional Affairs, rather than displacing members of the Transport Committee and trying to get some legal expertise there. I leave it to the honourable senators' discretion.

**Senator Austin:** As to sensitivity towards the contribution that the opposition side can make, I assure honourable senators that I want to work and I do work with the opposition to accommodate them within the agenda requirements of the government.

I shall, of course, support Senator Andreychuk in requesting of the deputy leader and the whip on her side that she become a member of the committee, along with anyone else on her side who wishes to participate and who believes, as I do, that this is a very important bill. There are critical issues here. The conclusions of the bill are not necessarily to be taken for granted.

However, on the issue of where the bill should go, I have given my advice to the Senate.

**Hon. Eymard G. Corbin:** Honourable senators, I do not want to talk about the committee to which the bill should be sent. Since the government insists on this bill and since it expects the members of the Transport Committee to do good work, I wonder if I could elicit a commitment from the Leader of the Government in the Senate to provide us as soon as possible with complete briefing notes on this bill so that we can do justice to it.

**Senator Austin:** I have no hesitation in saying that any briefing material available to the sponsor of the bill and to the chair of the committee is available to every senator on the Transport Committee and any senator who wishes to have that material.

**Senator Corbin:** That is a commitment, because usually we are faced with last-minute material given to us at the beginning of the committee sittings. There is no way a senator can do an honest job of examining legislation if he or she does not have the briefing material well ahead of time. That is all I am asking for.

Motion agreed to and bill read second time.

#### REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Day, bill referred to the Standing Senate Committee on Transport and Communications.

[Translation]

#### BILL RESPECTING EQUALIZATION AND AUTHORIZING THE MINISTER OF FINANCE TO MAKE CERTAIN PAYMENTS RELATED TO HEALTH

#### SECOND READING—DEBATE ADJOURNED

**Hon. Pierrette Ringuette** moved the second reading of Bill C-18, respecting equalization and authorizing the Minister of Finance to make certain payments related to health.

She said: Honourable senators, I am truly happy to speak today at second reading of Bill C-18, respecting equalization and authorizing the Minister of Finance to make certain payments related to health. This bill deals with Canada's system of federal transfer payments.

First, it makes it possible for equalization payments to continue while waiting for completion of the legislative renewal process.

• (1550)

It authorizes the Government of Canada to provide \$2 billion to the provinces and territories for health, as the Prime Minister confirmed at the end of the recent first ministers' meeting.

Before discussing the need for the bill, I would like to first give you an overview of the federal transfers, which will help put these measures into context. As you know, the Government of Canada provides assistance to the provinces and territories to help them provide programs and services.

The provinces and territories run their own health, education and social services programs, while the Government of Canada provides them with annual financial assistance through transfer payments.

This system ensures equal access to public health care for all Canadians, a safety net for those who need it the most, the freedom to move about the country in search of work, training and higher education for those who qualify, and reasonably comparable services, no matter the province of residence.

[English]

The large majority of federal financial support is delivered through the Canada Health and Social Transfer, CHST; the Equalization Program; the Territorial Formula Financing; and the new Health Reform Transfer or HRT. Bill C-18 affects equalization and the CHST.

In my remarks today, I will focus first on the equalization program and the measures that affect it. The equalization program is unique among federal transfers in that its object was entrenched in the Constitution in 1982. The program ensures that less prosperous provinces have the capacity to provide reasonable, comparable levels of public service at reasonably comparable levels of taxation.

[Translation]

The fact that equalization was one of the rare programs exempt from any restrictive measure in the mid-1990s when the Government of Canada tried to put its fiscal house in order, illustrates how important this program is to the government.

Since the creation of the equalization program in 1957, all the provinces except Ontario have benefited from payments in varying degrees. Currently, with the exception of Ontario and Alberta, the eight other provinces are eligible for federal assistance under the equalization program. Equalization is the most important federal program, helping to reduce the differences in the abilities of the provinces to provide services.

Equalization payments are unconditional. In other words, the provinces that receive payments can use the funds for public services according to their own priorities. The Government of Canada Treasury makes equalization payments monthly.



[English]

Payments are calculated according to a formula that responds to the changing economic fortunes and circumstances of provinces. The formula measures the performance of provincial economies relative to the average fiscal capacity of the five middle-income provinces, which forms a threshold or a standard. It is applied in exactly the same way to all provinces.

For provinces with a fiscal capacity below the standard, the federal government pays equalization payments to ensure that all provinces have a fiscal capacity equal to the standard. As honourable senators might expect, the result adjusts accordingly in response to economic developments in each province. For example, when a province's economy is booming, relative to the standard province, its equalization payments decline under the formula, thus reflecting the increased wealth of that province. Conversely, when a province's economy experiences a slow down relative to others, its equalization payments increase.

There is one more aspect of the equalization program I wish to touch on before turning to the bill and that is the "floor" provision. The floor provision protects the provinces against large year over year declines in equalization payments to individual provinces that would otherwise be warranted by the straightforward application of the formula. This would occur, for instance, when the measured fiscal capacity of a province increases or when its population decreases, or even both.

Until recently, payments were also subject to a "ceiling" provision, which provided protection for the federal government against increases in equalization payments. To meet the commitment in the 2003 Health Accord, the 2003 budget permanently removed the ceiling beginning in the budget year 2002-03.

Honourable senators, the equalization program is reviewed on an ongoing basis by federal and provincial officials to ensure that differences in the capacity of provinces to raise revenues are measured as accurately as possible.

[Translation]

Moreover, some major aspects of the bill before us today have to do with the fact that the program is renewed through a legislative process every five years, to protect its integrity and fundamental objectives. The last time this was done was in 1999.

As honourable senators know, the current legislation will expire on March 31, 2004. Discussions on the five year renewal of the equalization program are underway. However, if the renewal legislation is not in effect by April 1, 2004, the government might not have the power to authorize equalization payments, which is why Bill C-18 must be passed.

One of the objectives of Bill C-18 is to ensure the uninterrupted flow of equalization payments after March 31, when the current legislation is scheduled to expire. The bill authorizes the Minister of Finance to continue making equalization payments under the current formula, for a maximum of one year, if the renewal legislation is not in effect by April 1, 2004.

[ Senator Ringuette ]

In other words, this bill is a precautionary measure to ensure that the payments on which the provinces depend are not interrupted. Let us not forget that eight provinces, and their citizens, rely on equalization payments.

Honourable senators, the government is committed to tabling the integral renewal legislation. However, it is essential to protect the public services that are funded by the provinces under the equalization program for the benefit of their citizens. If Bill C-18 is not passed, the impact on beneficiary provinces could be very serious.

[English]

I wish to speak now about the renewal legislation that will ensure that the program remains up to date and that the best possible information is used to determine equalization payments.

Let me state clearly that the government will table renewal legislation that will be retroactive to April 1, 2004. In developing the renewal legislation, the government is being guided by three key principles. The first principle is the government's commitment as set out in the Constitution to a strong equalization program that allows provinces to provide reasonable comparable levels of public service at reasonable comparable levels of taxation.

The second principle is the government's commitment to improving the predictability and stability of the equalization program. Equalization payments to the provinces should not destabilize provincial fiscal planning.

• (1600)

The third principle is the government's commitment to maintaining the integrity of the equalization program. This principle, as honourable senators will recall, is founded on the premise that payments have to be based on an objective formula, thereby ensuring equal treatment to all provinces.

Maintaining the integrity of the program requires periodic revisions to reflect the most up-to-date figures and current provincial taxation practices while ensuring the long-term sustainability of the program. In short, the government's commitment to equalization renewal is not about cutting or enriching the program; it is about making appropriate, fair and accurate changes.

[Translation]

Now, I want to focus on the measure in Bill C-18 concerning the Prime Minister's commitment to provide an additional \$2 billion to the provinces and territories for health. The public health care system in Canada is essential to our quality of life. The Prime Minister supported this opinion in his address in reply to the Throne Speech on February 3, 2004:

We want a Canada where our universal health care system is a proud example of our national values at work.

As you know, the Government of Canada plays a key role in supporting the national health care system, mainly through the CHST and the Health Reform Transfer.

I want to explain in greater detail the support provided by the federal government.

[English]

Through the Canada Health and Social Transfer, the provinces and territories receive cash payments and tax transfers in support of health care, post-secondary education and social services, including early childhood development and early learning and child care.

The CHST and the new Health Reform Transfer both uphold the five medicare principles of the Canada Health Act — universality, comprehensiveness, accessibility, portability and public administration. It also ensures that no minimum residency period is required to receive social assistance.

The government reiterated its support for these principles of medicare in the Speech from the Throne through the following statement:

The Government's commitment to health care rests on one fundamental tenet: that every Canadian have timely access to quality care, regardless of income or geography — access when they need it.

The Government is committed to this goal: universal, high-quality, publicly funded health care, consistent with the principles of medicare, as set out in the Canada Health Act.

As many of my honourable colleagues will recall, since the CHST was created in 1996, the federal government has strengthened the transfer numerous times. In fact, these funding increases have been very significant.

Under the five-year Health Renewal Agreement reached by the first ministers in September 2000, the federal government provided \$21.1 billion over the course of the agreement period to the provinces and territories for health care and early childhood development, its largest ever increase.

[Translation]

In support of the Health Renewal Agreement, the Government of Canada also provided an additional \$2.3 billion for targeted investments to purchase medical equipment, ensure primary care reform and implement new information technologies such as electronic patient files.

Based on the commitments made in 2000 for reform and renewal, Budget 2003 confirmed the payment of an additional \$34.8 billion, over five years, to reach the objectives set out in the 2003 health accord, including significant increases in transfer payments to the provinces and territories.

Subsequent to this investment, the federal government will provide, in 2003-04, \$37.5 billion to the provinces and territories through the CHST.

[English]

As well, the 2003 budget restructured the CHST as of April 1, 2004 into two separate transfers. They will be a Canada Health Transfer and a Canada Social Transfer to increase transparency and accountability. Provinces retain their responsibility for program design and delivery. At the same time, federal support for provincial program areas — health, post-secondary education and social services — will be more transparent to Canadians.

This important structural change, combined with the increased federal support for health care, clearly demonstrates the federal government's commitment to ensuring a sustainable and accountable health care system that will continue to be there for the next generation of Canadians.

[Translation]

Another federal transfer arising out of the 2003 Accord is the new health reform transfer through which the Government of Canada pays \$16 billion over five years to the provinces and territories to accelerate reform in priority areas such as primary health care, home care and catastrophic drug coverage.

I can assure you that the government will be distributing the additional funding and the new health reform transfer on a uniform per capita basis, in order to ensure that all Canadians are helped equally, regardless of where they live.

[English]

This brings me to the second measure in Bill C-18 which authorizes the Minister of Finance to appropriate \$2 billion from the Consolidated Revenue Fund in 2003-04 for health. In addition to \$34.8 billion over five years committed in the 2003 Health Accord for health care, the federal government also indicated that it would provide "an additional \$1 billion for health at the end of fiscal year 2003-04, if the Finance Minister determines during the month of January 2004 that there will be sufficient surplus above the normal contingency reserve to permit such an investment."

Both the February 2003 budget and the November 2003 economic update reaffirmed this commitment. As stated in the economic update, "if there is any federal surplus this year we will provide up to the first \$2 billion of it for health care spending when we close the books."

[Translation]

After the first ministers' meeting of January 2004, the Prime Minister confirmed that the entire \$2 billion will be going to the provinces and territories. What is more, it was pointed out in the Speech from the Throne that this transfer will be possible without putting the Government of Canada back into a deficit position.



I would also like to make it clear that this is over and above the additional \$34.8 billion over five years for health care already confirmed in the 2003 budget.

If this bill is passed before the end of the fiscal year, it will provide the provinces and territories with the necessary leeway to be able to withdraw this money as needed. This will help them to plan ahead and provide better health care to their residents.

• (1610)

After all, health is one of Canadians' top priorities. At the meeting of first ministers in January, the Prime Minister stated his intention to meet his counterparts again this summer to discuss the long-term viability of Canada's public health system.

In the meantime, the provisions of Bill C-18 will help ensure that Canada's health care system will remain, in the Prime Minister's words, a proud example of our national values at work.

Honourable senators, in September 2000, Canada's first ministers confirmed that the key goals of our health system are to: preserve, protect and improve the health of Canadians; ensure that Canadians have reasonably timely access to health services anywhere in Canada, based on their needs, not their ability to pay; and, ensure the system's long-term sustainability so that health care services are available when needed in future years.

In his reply to the Speech from the Throne, the Prime Minister confirmed the government's commitment. As he said, health care is the nation's first priority. Quality care; timely care. Care that is accessible regardless of income; portable right across Canada; and publicly funded. We are committed irrevocably to the principles of the Canada Health Act. They are part of who we are — a moral statement about fundamental fairness — that all Canadians should stand equal before our health care system. The additional funding for health that this bill provides is proof of the Government of Canada's unshakeable commitment to health care.

[English]

It is part of the ongoing federal commitment to growing, stable and predictable funding so that provinces and territories can plan for the future. As well, this substantial investment is being provided within a framework of balanced budgets that ensures its sustainability over the long run.

With respect to the equalization component of this bill, I urge honourable senators to keep in mind that not all parts of the country can generate the same revenues to finance public services. Bill C-18 underscores the priority the government places on equalization and ensures uninterrupted funding until renewal legislation is in place. As honourable senators know full well, the equalization program reflects the core values of the Canadian federation and deserves our full consideration and support.

Honourable senators, this bill deserves to be passed without delay.

On motion of Senator Kinsella debate adjourned.

[Senator Ringuette]

[Translation]

## OFFICIAL LANGUAGES ACT

### BILL TO AMEND—THIRD READING

**Hon. Jean-Robert Gauthier** moved the third reading of Bill S-4, to amend the Official Languages Act (promotion of English and French).

He said: Honourable senators, it is with pleasure that I move the third reading of Bill S-4. This is the third time my proposal is being put to a vote in the Senate.

The idea is to add teeth to the Official Languages Act, which, as you know, has been interpreted in various ways since 1988. Some say that the interpretation is declaratory and that the wording is not binding. Others, like me and many in this chamber, say the opposite, that it is executory.

On September 19, 2001, during the first session of this Parliament, I introduced Bill S-32. It was passed at second reading, sent to the Committee on Legal and Constitutional Affairs and seriously considered in committee. There were 8 meetings and 31 witnesses.

From April 6 to 18, 2002, the committee gave serious consideration to this bill. It was improved; the committee heard from constitutional specialists, linguists and people who are familiar with the subject matter. Everyone agreed that part of this legislation needed to be clarified, given teeth, and that rights and obligations needed to be put in place.

I remember in 1988 the Secretary of State's testimony in committee. I asked him what section 41 did. He said that it created obligations for the government. I believed him. Later, unfortunately, the legal interpretation by Department of Justice counsel differed from the generous interpretation the minister had given me.

Disappointed, I introduced a bill. On December 10, 2002, when the second session of the 37th Parliament resumed sitting, I introduced Bill S-4 to incorporate important provisions in the Official Languages Act.

I was inspired by the recommendations made by various constitutional and linguistic experts. I want to thank the Honourable Senators Joyal, Beaudoin, Fraser, as well as the members of the Standing Senate Committee on Legal and Constitutional Affairs, many of whom are here, who spent numerous hours considering the bill and attempting to improve it. I thank them from the bottom of my heart.

I incorporated all these recommendations and suggestions in the new Bill S-11, which I presented on April 3, 2003. The Standing Senate Committee on Legal and Constitutional Affairs considered the bill. Senator Rose-Marie Losier-Cool was the chair. The report was tabled in the House. Once again, the Houses were prorogued; I am not lucky.

There was nothing for it but to wait. I returned to the charge on February 3, 2004, when Parliament resumed. I tabled Bill S-4, based on Bill S-11, and did not change one thing, not one letter or comma. It is the same bill that was considered by the Standing Committee on Legal and Constitutional Affairs. It is a serious bill and, I think, a good one. I did not change anything because it is complete and there is nothing to improve. Section 41 of the Official Languages Act reads as follows:

The Government of Canada is committed to enhancing the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development and fostering the full recognition and use of both English and French in Canadian society.

• (1620)

Honourable senators, two subsections have been added to clause 1 of Bill S-11: subsection 41(2) states that federal institutions shall ensure that positive measures are taken for the ongoing and effective advancement and implementation of the Government of Canada's commitments with respect to English and French in Canada in accordance with the provisions in subsection 41(1).

Subsection 41(3), which I am proposing, gives the Governor in Council the power to make regulations to provide tools and means of interpreting this section so that the obligations of these federal institutions are carried out in accordance with Part VII of the Official Languages Act.

At the present time, there are no regulations governing Part VII of the Official Languages Act. Consequently, there are none for section 41. Having legislation without regulations is like having a watchdog with no teeth, or such a tiny one that no one could take it seriously. The law must be enforceable, and of course must therefore have regulations. As well, the Commissioner of Official Languages must be able to intervene in any proceedings relating to Part VII, and this is also not allowed under subsection 77(1). She cannot help us, and the communities cannot go to court, because section 41 is not enforceable. The Commissioner of Official Languages is therefore shunted aside, not because she wants to be, since she is the one who has recommended that we put some teeth into the act so that she can help us. And that is what I have done.

Clause 2 of my bill amends section 43 of the Official Languages Act as it now stands. It requires the Minister of Canadian Heritage to take appropriate measures to advance the equality of status and use of English and French in Canadian society. A number of witnesses, academics, senators and others have supported this proposal, which makes some major changes to the role of Canadian Heritage in the interpretation of Canadian legislation, the Official Languages Act in particular.

Finally, clause 3 makes an addition to Part VII of the Official Languages Act and adds provisions which allow application to the courts for remedy. This was done on the recommendation of the Commissioner herself.

In conclusion, Bill S-4 is a good bill. It has undergone a very good examination by the Senate on three occasions. Its objective is clear and simple: to add enforcement provisions to the act and clearly confirm the government's obligations.

On March 1, Dr. Dyane Adam, the Commissioner of Official Languages, said something at the Senate Committee on Official Languages that impressed me a great deal:

The time has come to act, and the legislative route seems to me to be the most appropriate. It is my hope that Senator Gauthier's Bill S-4, intended to clearly confirm the government's obligations and to specify that Part VII is not limited to a political commitment, will soon be sent to the House of Commons.

One could not be any clearer. Therefore, honourable senators, I humbly submit that Bill S-4 should be passed at third reading and sent to the other place for review and consideration. I want to sincerely thank all those who provided advice and support. I also want to thank Michel Patrice, who helped me tremendously with writing this legislation and including the suggestions made by my colleagues.

If we act quickly, the House of Commons might be able to review and pass this legislation in the coming weeks. Official language minorities, that is anglophones in Quebec and francophones in the other provinces, would be better equipped to protect themselves and thus promote the full recognition of French and English in Canadian society.

Motion agreed to and bill read third time and passed.

[English]

## THE ESTIMATES, 2003-04

### REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (B) ADOPTED

Leave having been given to revert to Reports of Committees:

The Senate proceeded to consideration of the third report of the Standing Senate Committee on National Finance (Supplementary Estimates (B) 2003-2004) presented in the Senate on March 10, 2004.

**Hon. Lowell Murray** moved the adoption of the report.

He said: Honourable senators, it is not necessary for me to add anything at this point. If I may say so, with all due modesty on behalf of the drafters and the other members of the committee, this report is very comprehensive as to the facts of the Supplementary Estimates (B) and equally comprehensive as to the concerns expressed by honourable members of the committee and the replies of witnesses speaking on behalf of the government.

To the extent that there are matters that must be followed up, I can assure honourable senators that the committee, which now has before it the Main Estimates for 2004-05, will follow them up. To the extent that honourable senators may wish to refer to these in debate, we will have ample opportunity to do so when the first interim bill is before us, as it most assuredly will be in a few weeks.



**Hon. Joseph A. Day:** Honourable senators, as Deputy Chair of the Standing Senate Committee on National Finance, I echo and support the words of our chairman. The report we are discussing concerns the Supplementary Estimates (B) for fiscal 2003-04. I urge honourable senators to support the motion to adopt this report.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

[Translation]

#### REPORT OF NATIONAL FINANCE COMMITTEE ON MAIN ESTIMATES ADOPTED

The Senate proceeded to the consideration of the fourth (final) report of the Standing Senate Committee on National Finance (2003-2004 Main Estimates) presented to the Senate on March 10, 2004.

**Hon. Lowell Murray:** Honourable senators, what I just said in English about the Supplementary Estimates (B) applies equally to the report that is now before you. I am urging you to approve the adoption of the report on the 2003-04 Main Estimates.

• (1630)

[English]

**Hon. Joseph A. Day:** Honourable senators, this report is reflective of the work done by the National Finance Committee. The report completes the committee's study of the Main Estimates for the fiscal year ending this month. I would urge honourable senators to support the motion to adopt it.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

#### PERSONAL WATERCRAFT BILL

##### THIRD READING

**Hon. Mira Spivak** moved third reading of Bill S-8, concerning personal watercraft in navigable waters.

**The Hon. the Speaker *pro tempore*:** Is the house ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

#### THE CONSTITUTION ACT, 1867 THE PARLIAMENT OF CANADA ACT

##### BILL TO AMEND—SECOND READING—MOTION IN AMENDMENT TO REFER SUBJECT MATTER ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Oliver, seconded by the Honourable Senator Lynch-Staunton, for the second reading of Bill S-3, to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate),

And on the motion in amendment of the Honourable Senator Oliver, seconded by the Honourable Senator Lynch-Staunton, that the Bill be not now read the second time, but that the subject-matter thereof be referred to the Standing Senate Committee on Legal and Constitutional Affairs.—(Honourable Senator Rompkey, P.C.).

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, we have reflected on this issue, as I said we would at the last sitting. We are prepared to support moving the subject matter to committee as contained in the last motion.

**The Hon. the Speaker *pro tempore*:** Is the house ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker *pro tempore*:** In amendment, it was moved by the Honourable Senator Oliver, seconded by the Honourable Senator Lynch-Staunton, that the bill be not read now the second time, but that the subject matter thereof be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

#### BILL RESPECTING THE EFFECTIVE DATE OF THE REPRESENTATION ORDER OF 2003

##### SECOND READING—POINT OF ORDER

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Stratton, for the second reading of Bill S-7, respecting the effective date of the representation order of 2003,

And on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Stratton, that the original question be now put.—(Honourable Senator Robichaud, P.C.).

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I rise on a point of order regarding Senator Robichaud moving the motion that he has become habituated to moving over this last little while, simply because, as we heard at the beginning of the day's session when His Honour read a

message — with what some might consider indecent haste — a certain bill has received Royal Assent. However, a decision has been taken on the same subject matter. I think His Honour would need to rule that when a decision has been taken by the chamber on a bill dealing with the same subject matter, we cannot proceed with the other bill.

Would honourable senators like a reference? You should read this; it is good literature. Go to page 499 of Erskine May *Parliamentary Practice*, the twenty-second edition.

[Translation]

**Hon. Fernand Robichaud:** Honourable senators, I understand that my honourable colleague wants to bring you to the point where you would have to make a decision. Having asked that the order stand, I think that the original question should now be put. This means that the motion could be defeated and that the item could automatically be dropped from the Order Paper, which would obviate the need for the Chair to do the necessary research to arrive at a decision.

[English]

**The Hon. the Speaker:** Senator Kinsella has risen on a point of order and referred me to Erskine May. I have not looked at it. We can proceed with unanimous consent to do, I think, what the object of the exercise is, and that is to have this item deleted from the Order Paper.

However, Senator Kinsella's point is that the Speaker should decide that question. He has argued that the Speaker should delete the item from the Order Paper. I am not sure we are not proceeding by unanimous consent. I will hear comment on that issue. I will see Senator Rompkey, and then I will go to Senator Kinsella before I stop hearing senators, because it is his point of order.

**Hon. Bill Rompkey (Deputy Leader of the Government):** We are ready to give unanimous consent. We have heard what Senator Kinsella has to say and none of us questions his expertise in the matter. He has made the appropriate reference to the appropriate authority, and I think His Honour will find unanimous consent to drop the item from the Order Paper.

**Senator Kinsella:** Honourable senators, I always appreciate receiving unanimous consent. When I dare to seek unanimous consent, I do so with trepidation and no sense of security.

However, I am not asking for unanimous consent in this case. We are dealing with two bills before the house, the subject matter of which is the same. It is quite in order to have two bills dealing with the same subject matter before the house at the same time. Once a decision has been taken on one of those bills, we cannot proceed with the other bill.

I will cite an example in our own precedent. Honourable senators who were here in 1990, I believe it was, when the amendments to the Criminal Code dealing abortion were before us will recall that Senator Haidasz had a private member's bill, an

S-bill, dealing with the same subject matter. A decision was taken by the chamber on the government bill, and senators will recall it was negative. When Senator Haidasz attempted to move his bill, the Speaker ruled that because a decision had been taken in the session, the Senate could not proceed with that bill.

That is the precedent, in addition to the procedural literature, that would sustain that the Speaker makes the decision. In fact, it was the attempt by Senator Robichaud to do something that caused this thing to be out of order.

[Translation]

**Senator Robichaud:** Honourable senators, I find it hard to believe that Senator Kinsella wants the Speaker of this chamber to make a ruling on this point, because it could be used later to say that a ruling was made while two bills were before the Senate. As a consequence, if Senator Kinsella's bill had been defeated, as was claimed, the government would not have been able to introduce its bill because a ruling would already have been made on the issue.

• (1640)

It would be too easy for anyone in this place who did not agree with a bill being debated in the other place to propose another bill on the same subject but with a few differences. The bill would be defeated in the Senate because it could not meet the expectations of the majority and the outcome would be that the bill from the other place could not be introduced. If this were the case, we could prevent bills from the House of Commons from moving to the Senate. It might be a good thing for the Speaker to take this under consideration. I do not agree with what Senator Kinsella says on this.

[English]

**The Hon. the Speaker:** Honourable senators, no other senator is rising. Let me summarize where I think we are. I invite senators to rise if they disagree.

We have come to Item No. 5, under Senate Public Bills, which was the subject of the point of order raised at the last sitting, which Senator Kinsella has continued to make at this sitting. Senator Rompkey suggested that we could deal with this by unanimous consent. That is the object of the exercise, namely, to have it eliminated from the Order Paper. I take it that Senator Kinsella is not giving unanimous consent, so we are on his point of order.

We are in an area that, as Senator Kinsella mentioned, we have visited before. I do remember the circumstances dealing with the bill of then Justice Minister Kim Campbell and that we did have the Speaker at that time take some actions. However, I do not remember it well enough to feel confident in proceeding with a decision now. I have also received a reference, and I believe that might have been the subject of rulings at the time.

Honourable senators, I will take this matter under consideration and bring back a ruling at the first opportunity.



## HAZARDOUS PRODUCTS ACT

BILL TO AMEND—THIRD READING—  
DEBATE ADJOURNED

**Hon. Yves Morin** moved third reading of Bill C-260, to amend the Hazardous Products Act (fire-safe cigarettes).—(*Honourable Senator Morin*).

He said: Honourable senators, I cannot think of another bill that will have such an immediate impact on the health and well-being of Canadians. It will save lives, prevent injuries and protect property. There is no down side to it. Every year, 100 Canadians die in fires caused by cigarettes and more than 300 are seriously injured. Few injuries cause as much pain, disfigurement and handicaps as burns from these fires.

We see this in newspapers every week. On Monday, for instance, in the *Montreal Gazette*, there was a report on the death of a 50-year-old woman on Beauséjour Street. She died of a fire caused by a forgotten cigarette. This lady would be alive today if Bill S-260 had been in effect.

In New York, a cigarette-induced fire was responsible for the death of three firefighters, members of Ladder Company 170 in Brooklyn. Legislation similar to Bill C-260 was passed in the state legislature and by June 25, 2004, all cigarettes sold in New York will be fire safe.

The tobacco industry is divided on the subject of this bill. Certain companies such as Phillip Morris, R. J. Reynolds and Lorillard already have the necessary technology to produce low ignition propensity cigarettes. Others such as Imperial Tobacco oppose the bill. Otherwise, there is unanimous support for this bill. It was unanimously passed in the other place. The Minister of Health supports the bill. Health Canada has completed its work on the technical aspects of the bill by preparing regulations describing the method and flammability standard to be used to test these cigarettes.

Honourable senators, there is absolutely no reason to delay this bill any longer. Every week that passes while we are considering this legislation will see two more Canadians die from cigarette-induced fires. This is not the first time we have seen this bill. It was introduced in the Senate on November 4, 2003, only to die on the Order Paper.

Honourable senators, we must not let any more time pass. I urge you to vote now on this crucial measure of public health. Canadians expect no less from us.

**Hon. Senators:** Hear, hear!

On motion of Senator Kinsella, debate adjourned.

## QUEEN'S THEOLOGICAL COLLEGE

PRIVATE BILL TO AMEND ACT OF INCORPORATION—  
SECOND READING

**Hon. Lowell Murray** moved second reading of Bill S-15, to amend the Act of incorporation of Queen's Theological College.—(*Honourable Senator Murray, P.C.*).

He said: Honourable senators, as you have been told, the purpose of this bill is to amend the Charter of Queen's Theological College, which is an act of Parliament dating back to 1912. Let me thank Senator Day for agreeing to second the motion for second reading of this bill.

I hasten to add that neither of us is a graduate of Queen's Theological College. The authorities at the college were too polite to ask me to emphasize that fact, but I thought I should do so anyway. Senator Day is a proud graduate of the Queen's Law School and I of the School of Public Administration there. I count on the active support of Senator Kelleher, also a graduate of Queen's University, and of other honourable senators, far more numerous, who respect and value the university's place in our history for more than 160 years, its continuing contribution to policy, politics and government in this country and, in particular, its seminal role in creating a highly skilled and resolutely professional federal public service.

• (1650)

We do owe a great deal to Queen's, a matter on which I spoke in some detail in 1996 when I had the honour of presenting a bill to amend the university charter, the eighth time since Confederation that Parliament had done so. I took the occasion of that debate to reflect also on the immense role the church had played in the development of education in this country. Finally, I explained the origin of the Royal Charter that established Queen's in 1841 and something of the constitutional and legal background that requires the university to come to Parliament for any amendment of its charter. It is the only university in Canada in such a position.

In appreciation of the cooperation of honourable senators on this bill, given the time constraints under which Parliament may be operating at the moment, I shall not take you through this history again. I would note, however, that theology had been taught at Queen's University since classes began there in 1842. In fact, Queen's was founded for the purpose of providing a secular and/or theological education along the lines of the Presbyterian faith. In 1911, the Presbyterian Church withdrew from control of the university. The next year, Parliament passed an act incorporating the Faculty of Theology as Queen's Theological College. It is that act we are called to amend in the bill now before us.

In 1925, with the union of Presbyterian, Methodist and Congregational Churches, Queen's Theological College entered into the United Church of Canada whose General Council holds the same relation to the college as had the General Assembly of the Presbyterian Church.

I shall note also that this is the first time that the charter of Queen's Theological College, which was enacted in the Parliament of 1912, has been before us for amendment. They certainly have not abused their filial relationship with our predecessors and us over the past 92 years.

Honourable senator, there are three substantive provisions of the 1912 act that this bill seeks to amend — the first of which is membership in the board of management of Queen's Theological College. Members of the faculty of the college were ineligible under the 1912 act for appointment to the board. The bill before you would repeal that provision, which is contained in section 9 of the 1912 act.

Under section 12 of the 1912 act, only members of the Church were eligible for appointment to the board. Under this bill, the power of appointment remains with the General Council of the United Church, but non-members of the Church would now be eligible to be named. United Church members would, however, constitute a majority of board members.

I, who grew up in a culture where it was believed the world was divided into Catholics and non-Catholics, confess to some small amusement in presenting a bill that so elegantly divides the world into United Church and non-United Church.

Under the 1912 act, the board has needed the approval of the General Council of the Church to appoint or remove the principal of the college and the professors of theology at the college. In the bill that is before us, a veto power is retained for the Church on those appointments and removals, but the board may appoint all other professors.

Finally, a provision of the 1912 act allows for appointment of professors from the college to the Queen's University senate. This bill would provide for the election of one professor and the election of one student, in addition to the principal ex officio, to the university's senate.

The bill also contains several technical or incidental amendments to the 1912 act. For example, the reality of the college's relationship with the United Church was established by the legislation creating Church union in 1925, but the references in the 1912 act to the Presbyterian Church have never been amended. This bill will confirm, in the charter of Queen's Theological College, that which has existed in fact for 79 years, namely, the relationship between the college and the United Church of Canada.

In preparing to present this bill, I did take the occasion to review the programs offered at Queen's Theological College. They offer two master's degrees and two undergraduate degrees in theology, with various concentrations, and four non-degree programs, including diplomas and certificates. There are three programs I want to mention. One is the rural ministry program, where both a master's in divinity and a diploma are offered. In this program, the college seeks to address the rural context of Eastern Ontario and New York, exploring the changing nature of rural society and trying to equip the Church to serve the needs of people outside the large urban centres.

Second, there is a bachelor of theology program, which is designed to train native persons for the ministry, developing a theological approach that reflects an understanding of native spirituality and of a leadership style suitable to native culture.

Finally, and commendably, given the several large federal penitentiaries in the Kingston area, Queen's Theological College offers both a master's in divinity and a diploma with a concentration in restorative justice. Given the preponderance of violence in our context, says the college, and the punitive nature of human response, both past and present, this program examines theological and biblical underpinnings for our actions and explores alternative ways of being. The idea is to prepare students for work in or outside the ministry in restorative justice with victims, offenders and communities.

This brief review was sufficient to persuade me that Queen's Theological College really is trying to do God's work in our time, our country and world. I would ask honourable senators to give them the support and recognition they ask by acceding to their request for these amendments to their charter.

**Hon. Joseph A. Day:** Honourable senators, it is always a pleasure to follow the Honourable Senator Murray on an issue, especially when we are on the same side of the issue, since he canvasses the subject so very well.

In supporting this motion and urging honourable senators to vote in favour of second reading and to send Bill S-15 to committee, permit me to confirm that these proposed amendments are designed to modernize the college's governance and corporate structure. Queen's Theological College has its own board of management and will continue to do so. The United Church of Canada will continue to have a more direct role to play with respect to the theological students. There are approximately 90 theological students in the school at this time. Fifteen per cent of those are not aspirants to the ministry of the United Church. They include members of other Protestant faiths, including Baptists, and Roman Catholics.

In addition to Queen's Theological College, there is the Department of Religious Studies, in which more than 1,100 students are enrolled. Those studies are given by Queen's Theological College within the university. It is with respect to that broader constituency that the United Church's role is somewhat less stringent than in the previous legislation, and reasonably so.

Apart from that, as pointed out by the Honourable Senator Murray, the bill changes the role of faculty in the board of management. Previously, no faculty members could be in the board of management. Bill S-15 provides for that to happen.

Basically, honourable senators, Bill S-15 provides for a slight revision in the relationship between Queen's Theological College and the United Church of Canada. Second, the bill provides for an adjustment with respect to the relationship between the theological college and the university as a whole. All the proposed revisions seem reasonable and well thought out.



Honourable senators might be interested in consulting the *Rules of the Senate*, as I have. Private bills, such as this one, dealing with a specific institution and not with the general public, must go through a number of steps. Those steps are outlined in rule 107. It was confirmed yesterday by the clerk of petitions that all of the necessary steps have been met, including public advertising in the Kingston area, in the *Canada Gazette* and in the *Ontario Gazette*.

• (1700)

Honourable senators, all of the preliminary work has been done on this item. Senator Murray and I have separately reviewed the legislation. It appears to be reasonable and we would urge your support at second reading.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

#### REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Murray, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

#### LIBRARY OF PARLIAMENT

##### REPORT OF JOINT COMMITTEE ADOPTED

The Senate proceeded to consideration of the first report of the Standing Joint Committee on the Library of Parliament (work and quorum of the committee) presented in the Senate on March 9, 2004.—(*Honourable Senator Morin*).

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators to adopt the motion?

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, this report relates to the Standing Joint Committee on the Library of Parliament. I would ask the proponent of the report whether it speaks at all to the issue of when the joint committee would meet?

**Hon. Yves Morin:** Honourable senators, the report mentions in its last line that the committee might sit while the Senate is sitting.

**Senator Kinsella:** I thank the honourable senator for that information. It is to that point that I want to place on the record that we find a similar provision for the Joint Committee on the Library of Parliament as well as the Standing Joint Committee of

the Senate and the House of Commons for the Scrutiny of Regulations. In the past we have adopted that provision. I understand the reason we find favour in that fashion is that these are joint committees and the schedules of members of the other place must be taken into consideration. Those joint committees are generally given permission to sit even though the Senate is sitting. It is important to underscore that that is a unique circumstance.

**The Hon. the Speaker:** Are we ready for the question, honourable senators?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

#### USER FEES BILL

##### REPORT OF COMMITTEE ADOPTED—THIRD READING

The Senate proceeded to consideration of the second report of the Standing Senate Committee on National Finance (Bill C-212, respecting user fees, with amendments) presented in the Senate on February 26, 2004.—(*Honourable Senator Murray, P.C.*).

**Hon. Lowell Murray** moved the adoption of the report.

He said: Honourable senators, it is an unfortunate confluence of legislative items on the Order Paper that results in my being inflicted upon you for the sixth time in two days. I assure you that after this I will speak only when provoked.

For the record, Bill C-212 was first introduced in the House of Commons on October 7, 2002. After committee study, it was reported with amendments on June 13, 2003, and received third reading on September 29, 2003.

After second reading in the Senate, Bill C-212 was considered by our Standing Senate Committee on National Finance on October 28 and November 4. The bill died when the Second Session of the Thirty-sixth Parliament was prorogued on November 12, 2003.

The bill was revived in the new third session of this Parliament and came out of the House of Commons on February 2, 2004. Following second reading in the Senate, it was considered again by our National Finance Committee on February 7, 24 and 25.

Honourable senators, this bill is about user fees. It is the work of Mr. Roy Cullen, Member of Parliament for Etobicoke North. He deserves the thanks of parliamentarians and of taxpayers for his diligence, persistence and for the success he has achieved with this bill, if it passes, in bringing user fees within parliamentary oversight.

This is a complex and many-sided issue. For those most directly affected by user fees — those who pay them — the relationship between the user fee and the service for which the fee is charged is not always apparent. Moreover, the process lacks an independent dispute settlement mechanism or appeal process.

For parliamentarians, most recently in a Commons committee study in 2000, the process lacks transparency, accountability and effective Treasury Board oversight.

For the Auditor General, as far back as 1997, there is a lack of costing information that would be necessary to justify the level of user fees charged. The Auditor General also pointed to an absence of information on the financial, competitive and socio-economic impacts of user fees and to the lack of an appeal or redress process.

The view from the government side is quite different. From a Treasury Board perspective, very few programs delivering goods and services recover 100 per cent of their costs through user fees. The average rate of recovery for regulatory programs, according to Treasury Board, is between 30 and 40 per cent.

Treasury Board Secretariat gets to examine, on average, 10 to 12 fee proposal submissions per year. There are said to be 391 user charge programs in 47 departments and agencies, but these programs are subdivided into individual charges, 735 of which fall under the Canadian Food Inspection Agency alone.

The Auditor General's observation about a lack of oversight from the centre is borne out by Treasury Board's comment that many ministers, by virtue of their delegated authority, choose to leave their fee level static for many years. A recent review showed that some fees and fee structures had not been altered in 10 to 15 years.

No doubt Treasury Board, given its fiscal responsibilities, would like to bring user fees under tighter control and direction, and they are probably right to want to do so. However, parliamentary involvement would not be part of their grand plan, if they have one. They point to the several hurdles that already must be overcome in the present process, including approval of the fee proposal by a cabinet committee, publication in the *Canada Gazette* and review by the Standing Joint Committee for the Scrutiny of Regulations.

It must be said, however, that although senior officials sometimes talk about user fees as if they were an executive prerogative, the imposition of these fees is an authority delegated by Parliament. They bring in some \$4 billion annually, and they are of sufficient scope and impact that Mr. Cullen's heroic effort to bring them within the ambit of parliamentary oversight and control is understandable and commendable.

On Mr. Cullen's first try in 2003, his bill treated user fees not much differently from a tax and established a process for their consideration by the House of Commons with a possible veto at the end of it. The idea of a veto ran into such resistance at the official and, ultimately, the ministerial level that the veto power was removed from this bill in the Commons committee.

The amended process required that a proposed increase in a user fee or in its application would have to be tabled by a minister and explained in the Commons and would be deemed referred to the appropriate Commons committee. The committee would have the right to make a recommendation on the fee and the House

could pass a resolution approving, rejecting or amending the committee's recommendation. Such a resolution, however, would be of no legal force or effect. As a Treasury Board official helpfully reminded us at our committee, a parliamentary resolution is just an expression of opinion. The government is not obliged to act on it.

• (1710)

This issue, together with the absence of any role for the Senate in the proposed legislation, preoccupied members of the National Finance Committee in October and November when they met under Senator Day's chairmanship, and again in February after the bill had been revived. Inclusion of the Senate proved to be relatively uncomplicated and non-controversial. Mr. Cullen was more than happy to have this chamber and its committees in a role identical to that of our Commons colleagues in the process. The government, through Treasury Board President Reg Alcock, agreed and consensus was achieved on the necessary amendments that are now before honourable senators as part of this report.

As for the removal of Parliament's veto power over user fees, many members of our committee were greatly tempted to restore to this bill the teeth that had been extracted by the Commons. In fact, some of us discussed, informally and at committee, ways of retaining the veto power, albeit with various procedural devices that we thought might have made it more palatable to the government. In my own case, I confess that I looked forward with some relish to sending such a bill back to the Commons and as a challenge to those champions of democratic and parliamentary reform in the Liberal government. Let them, I thought, bear the opprobrium, if they cared to run the risk, of having voted against effective parliamentary control over the imposition of cost recovery and user fees.

Cooler heads prevailed. If Senate amendments to this private member's bill were unacceptable to the government, there would be no embarrassing vote in the Commons. The government's House managers would allow the bill to die at the bottom of the Order Paper when this Parliament is prorogued or dissolved. I have no doubt this would be a considerable loss to the users and citizens who have taken a close interest in this bill and who now support it even as it is, and a loss also to Parliament itself.

The legislated consultation requirements imposed on the government and its agencies by this bill would be lost. An independent process for addressing clients' complaints would be lost. The legislated obligation on ministers to explain and defend in Parliament user fee proposals in specific terms that are set out in the bill would be lost.

The automatic referral of such proposals to committee, our ability to recommend and the discretion of either House to pass a resolution will not have a legal impact; but the moral and political punch of such an outcome from such a process should not be discounted. That, too, would be lost if the bill were lost.

There is also provision for an automatic percentage reduction in a user fee tied to underperformance on standards by the regulating agency in question.



All these provisions, which form part of our report, I will leave to the sponsor of the bill, Senator Ringuette, to discuss if she wishes to do so.

A final amendment approved by our committee on February 25 provides for a three-year review of the operation of the act by the President of the Treasury Board and its tabling in both the Senate and Commons. All the proposed Senate amendments to this bill have the concurrence of the author of the bill, Mr. Cullen, and, to the best of our knowledge, of the government.

**Hon. Pierrette Ringuette:** Honourable senators, I would like to begin by saying that we have an outstanding chair of the National Finance Committee. As a rookie senator, this is the first bill I have sponsored. It is quite a good bill, I might say. Senator Murray has been good enough to guide and help me through the process, something for which I am grateful.

We heard the comments of different senators in the house before the bill was referred for the second time to the National Finance Committee. We have made amendments that now include the participation of the Senate as a House of Parliament through its committees.

We also see that the Crown corporations, which were a little scared by their probable implication in regard to the commercial side of operations, have been removed from the imposition process of the bill.

The bottom line, honourable senators, is that this bill is a tremendous effort made by a member of Parliament over a period of two and a half years. His tenacity and dedication are laudable. We have worked with him very closely. He has pushed the envelope as far as can be pushed for the current time in regard to how far the veto can be pushed, as Senator Murray mentioned.

We must give this bill a chance so that we may see how the process will work. There is a mandatory three-year review of the bill. Thus, in another three years, we will have the opportunity to see if it is working well and if it requires improvement. I urge honourable senators to pass this bill.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** It was moved by the Honourable Senator Murray, seconded by the Honourable Senator Forrestall, that this report be adopted now.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

### THIRD READING

**The Hon. the Speaker:** Honourable senators, when shall this bill, as amended, be read the third time?

[ Senator Murray ]

**Hon. Pierrette Ringuette:** Honourable senators, with leave of the Senate, I move that this bill be read the third time now.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** It is moved by the Honourable Senator Ringuette, seconded by the Honourable Senator Murray, that this bill, as amended, be read the third time now.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill, as amended, read the third time and passed.

### BUSINESS OF THE SENATE

#### REPORTS PLACED ON THE ORDER PAPER EARLIER THIS DAY ADOPTED

**The Hon. the Speaker:** Honourable senators, we have now reached the stage under Reports of Committee where a number of reports which, with leave, were put on our Order Paper earlier today. There are seven such reports. The pages are distributing a sheet of paper prepared by the Table which lists the seven committee reports.

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, I think His Honour would find agreement on both sides of the chamber to treat all these reports as one item and to seek approval for all of them at once.

In case they have not been distributed to everyone yet, perhaps it would be a good idea to itemize the reports. Each report deals with a budget and we need to approve them. They are reports by the Standing Senate Committee on Fisheries and Oceans; the Standing Committee on Internal Economy, Budgets and Administration; two for the Standing Senate Committee on Agriculture and Forestry; the Standing Senate Committee on Social Affairs, Science and Technology; the Standing Senate Committee on Official Languages; and the Standing Senate Committee on Energy, the Environment and Natural Resources.

• (1720)

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, the opposition agrees. If one honourable senator made the motion, seconded by another honourable senator, those movers and seconders could be recorded for all seven motions.

**The Hon. the Speaker:** Is leave granted that we deal with the seven motions with one vote?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** It being agreed, Senator Robichaud, do you wish to move them?

[Translation]

**Hon. Fernand Robichaud:** Honourable senators, I move that the reports numbered 1 through 7 now before us be now adopted.

[English]

**Hon. Anne C. Cools:** Honourable senators, even if we were to proceed in that way, an honourable senator would still have to say, "I move that the second report and the fifth report and the second report be adopted," et cetera. Hence, the time saving we will have gained is almost insignificant.

**The Hon. the Speaker:** I have a motion, Senator Cools. I understand your point. The way I had proposed to deal with this, because the house leaders have proposed we do it this way, is in the motion that I put.

Honourable senators, Senator Robichaud, seconded by Senator Rompkey, moved that we adopt the second report of the Standing Senate Committee on Fisheries and Oceans, the fifth report of the Standing Senate Committee on Internal Economy, Budgets and Administration, the second report of the Standing Senate Committee on Agriculture and Forestry, the third report of the Standing Senate Committee on Agriculture and Forestry, the fourth report of the Standing Senate Committee on Social Affairs, Science and Technology, the fourth report of the Standing Senate Committee on Official Languages and the fifth report of the Standing Senate Committee on Energy, the Environment and Natural Resources.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and reports adopted.

#### FOREIGN AFFAIRS

##### MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT WITHDRAWN

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, in the name of Senator Di Nino, I would ask that this motion be withdrawn, it having been covered by the motion carried earlier this afternoon.

**The Hon. the Speaker:** Is leave granted, honourable senators, to withdraw Motion No. 62 from the Order Paper?

**Hon. Senators:** Agreed.

Motion withdrawn.

#### BUSINESS OF THE SENATE

##### COMMITTEES AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

Leave having been given to revert to Government Notices of Motions:

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(i), I move:

That pursuant to rule 95(3), during the period Friday, March 12, to Monday March 22, 2004, inclusive, the Committees of the Senate be authorized to meet even though the Senate may then be adjourned for a period exceeding a week.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

Motion agreed to.

#### ADJOURNMENT

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Monday, March 22, 2004 at 8 p.m.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned until Monday, March 22, 2004, at 8 p.m.



**THE SENATE OF CANADA**  
**PROGRESS OF LEGISLATION**  
**(3rd Session, 37th Parliament)**  
**Thursday, March 11, 2004**

**GOVERNMENT BILLS**  
**(SENATE)**

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
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**GOVERNMENT BILLS**  
**(HOUSE OF COMMONS)**

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-4	An Act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence	04/02/11	04/02/26	Rules, Procedures and the Rights of Parliament					
C-5	An Act respecting the effective date of the representation order of 2003	04/02/11	04/02/20	Legal and Constitutional Affairs	04/02/26	0	04/03/10	04/03/11	1/04
C-6	An Act respecting assisted human reproduction and related research	04/02/11	04/02/13	Social Affairs, Science and Technology	04/03/09	0	04/03/11		
C-7	An Act to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety	04/02/11	04/03/11	Transport and Communications					
C-8	An Act to establish the Library and Archives of Canada, to amend the Copyright Act and to amend certain Acts in consequence	04/02/11	04/02/18	Social Affairs, Science and Technology	04/03/11	3			
C-13	An Act to amend the Criminal Code (capital markets fraud and evidence-gathering)	04/02/12	04/02/24	Banking, Trade and Commerce	04/03/11	0			
C-14	An Act to amend the Criminal Code and other Acts	04/02/12	04/02/25	Legal and Constitutional Affairs					
C-16	An Act respecting the registration of information relating to sex offenders, to amend the Criminal Code and to make consequential amendments to other Acts	04/02/12	04/02/19	Legal and Constitutional Affairs					
C-17	An Act to amend certain Acts	04/02/12	04/03/09	Legal and Constitutional Affairs					
C-18	An Act respecting equalization and authorizing the Minister of Finance to make certain payments related to health	04/03/10							
C-20	An Act to change the names of certain electoral districts	04/02/23	04/03/09	Legal and Constitutional Affairs					
C-22	An Act to amend the Criminal Code (cruelty to animals)	04/03/09							

## COMMONS PUBLIC BILLS

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-212	An Act respecting user fees	04/02/03	04/02/11	National Finance	04/02/26	10	04/03/11		
C-249	An Act to amend the Competition Act	04/02/03							
C-250	An Act to amend the Criminal Code (hate propaganda)	04/02/03	04/02/20	Legal and Constitutional Affairs					
C-260	An Act to amend the Hazardous Products Act (fire-safe cigarettes)	04/02/03	04/02/23	Energy, the Environment and Natural Resources	04/03/10	0			
C-300	An Act to change the names of certain electoral districts	04/02/03							

## SENATE PUBLIC BILLS

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-2	An Act to prevent unsolicited messages on the Internet (Sen. Oliver)	04/02/03							
S-3	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver)	04/02/03		subject-matter 04/03/11 Legal and Constitutional Affairs					
S-4	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	04/02/03	04/02/26	Official Languages	04/03/09	0	04/03/11		
S-5	An Act to protect heritage lighthouses (Sen. Forrestall)	04/02/03	04/02/05	—	—	—	04/02/05		
S-6	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	04/02/04	04/02/11	Legal and Constitutional Affairs					
S-7	An Act respecting the effective date of the representation order of 2003 (Sen. Kinsella)	04/02/04							
S-8	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	04/02/05	04/02/12	Energy, the Environment and Natural Resources	04/03/10	0	04/03/11		
S-9	An Act to honour Louis Riel and the Metis People (Sen. Chalifoux)	04/02/05							
S-10	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	04/02/10							
S-11	An Act to repeal legislation that has not been brought into force within ten years of receiving royal assent (Sen. Banks)	04/02/11	04/03/09	Legal and Constitutional Affairs					
S-12	An Act to amend the Royal Canadian Mounted Police Act (modernization of employment and labour relations) (Sen. Nolin)	04/02/12							



No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-13	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	04/02/19							
S-14	An Act to amend the Agreement on Internal Trade Implementation Act (Sen. Kelleher, P.C.)	04/03/10							
S-16	An Act to amend the Copyright Act (Sen. Day)	04/03/11							
PRIVATE BILLS									
No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-15	An Act to amend the Act of incorporation of Queen's Theological College (Sen. Murray, P.C.)	04/03/10	04/03/11	Legal and Constitutional Affairs					

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CANADA

# Debates of the Senate

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OFFICIAL REPORT  
(HANSARD)

**Monday, March 22, 2004**

—◆—  
THE HONOURABLE DAN HAYS  
SPEAKER





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## THE SENATE

Monday, March 22, 2004

The Senate met at 8 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

### SENATORS' STATEMENTS

#### THE CONSERVATIVE PARTY OF CANADA

##### ELECTION OF STEPHEN HARPER AS LEADER

**Hon. Gerry St. Germain:** Honourable senators, from the farthest reaches of our northern Arctic frontier to the depths of our southern border with the U.S.A, Canadians are rejoicing. From the rocky coast of Newfoundland and Labrador to the beaches of Vancouver Island, Canadians have felt a rekindling of new hope; hope for the way in which they govern themselves. Saturday's election of Stephen Harper as the leader of the new Conservative Party of Canada is the dawning of a new era in Canadian politics, one that is full of hope, and characterized by the restoration of democracy's real promise: government of the people by the people for the people. For the first time in Canadian history, the country now has a political party that offers a principled and realistic conservative alternative to liberalism in all of its forms.

Let me congratulate my leader, Mr. Harper, on his convincing victory. He assumes the helm of a party invigorated, grounded and forward-looking, embracing real principles that are founded in a common-sense approach to representing all Canadians. Let me also congratulate Belinda Stronach who stepped into the cut and thrust of the public arena, demonstrating that new ideas and new energy are the driving force behind a new party that has attracted more than a quarter-million Canadians into its ranks.

Let me also congratulate a committed and principled Conservative who brought his ideas and commitment to the leadership race. Mr. Tony Clement demonstrated the breadth and depth of our party, a party that exists because ideas do matter.

Honourable senators, Stephen Harper is a young, hard-working, common-sense leader who understands that Canadians are looking for political leaders who put integrity first and who are guided by an honest, principled and common-sense approach to decision-making. Mr. Harper stands in stark contrast to the crass, unprincipled, opportunistic and disconnected Liberal politicians who present themselves as having the right to govern.

Under Mr. Harper's capable leadership, two political forces in Canada were brought together, uniting ideas, talents, policies and historical memory that reaches back to the founding of our country. Under Mr. Harper's capable leadership, we are beginning to write a new chapter in Canadian history. It is a story about a modern government represented by young, positive, bright Canadians, most of whom come from ordinary

backgrounds but who have demonstrated an extraordinary commitment to public service in their communities.

It is a story of a group of principled people who put forward some common sense ideas about how government can be a positive force in improving the lives of ordinary Canadians. It is a story about how a principled political party earns the trust of Canadians, taking nothing for granted, honestly debating the merits of its proposed policies. It is a story of how Canada became a healthier, more productive, more prosperous, safer, more respected country where the lifestyles of its people were the top concern of the government. It is the story of individual Canadians being presented with this new hope, and choosing to make a decision; a decision that changed their lives forever and built a better country.

**The Hon. the Speaker *pro tempore*:** Honourable senators, I regret to inform the honourable senator that the time for his intervention has expired.

[Translation]

#### INTERNATIONAL DAY OF LA FRANCOPHONIE

**Hon. Rose-Marie Losier-Cool:** Honourable senators, I would like to remind you this evening that two days ago, that is, Saturday, March 20, 2004, it was the International Day of La Francophonie. The theme this year was social development and solidarity.

The word "francophonie" was used for the first time in 1880 by one Onésime Reclus. The concept has grown since its beginnings. La Francophonie has become more than simply all the people and countries using French. La Francophonie has created its own political bodies, giving it a significant role in the economic, political and social concerns of the world.

The Organisation internationale de la Francophonie or OIF, the French-speaking counterpart of the Commonwealth, represents nearly 500 million francophones in 55 countries on all 5 continents. It is headquartered in Paris, France, and its current Secretary General is His Excellency Abdou Diouf, former President of Senegal. The OIF is involved in peacekeeping, democracy, human rights, education, cultural diversity and economic development in its member countries.

The OIF has permanent delegations to the United Nations, the European Union and the Organization of African Unity. It holds an international summit every two years. The next summit will take place in November 2004 in Ouagadougou, Burkina Faso. The summit has twice been held in Canada: in Quebec City in 1987 and in my home area, in Moncton, in 1999. The OIF is also an organizing force behind the Games of la Francophonie every four years. The fourth edition of the games was held here in Ottawa-Hull in 2001; the fifth will be held in Niamey, Niger, in 2005.

For its activities, the OIF relies on the Agence intergouvernementale de la Francophonie, created in 1970, which is responsible for managing all programs approved at the organization's international summits.

In implementing its projects and objectives, the OIF also relies on the Agence universitaire de la Francophonie; TV5; the Université Senghor in Alexandria; the Association internationale des maires francophones; and two specialized institutes studying the environment and new technologies.

I will close by mentioning what I think is one of the most important components of the OIF, the Association parlementaire de la Francophonie. The APF was created in 1967 and has members representing 73 parliaments.

The work of the APF is carried out in part by the Réseau des femmes parlementaires — of which I am the vice president —

**The Hon. the Speaker *pro tempore*:** I am sorry, Senator Losier-Cool, but your time is up.

• (2010)

[English]

#### ANTI-SEMITIC INCIDENTS

**Hon. David Tkachuk:** Honourable senators, I want to state my disgust over several ugly acts of anti-Semitism that were carried out in the Toronto area over the last week. Last Monday, 13 homes in a mainly Jewish neighbourhood were painted with swastikas and anti-Semitic slogans. Some of these homes belonged to Holocaust survivors, who expressed shock that such a thing could happen to them in Canada.

This weekend, a synagogue's windows were smashed, and anti-Semitic graffiti and swastikas were found on a Jewish day school, a community centre and numerous signs for the United Jewish Appeal.

Perhaps the most disturbing of all these incidents was the desecration of a Jewish cemetery. Twenty-two headstones, some benches and a menorah were destroyed in the Bathurst Lawn Memorial Park Cemetery on Saturday night. While the damage to the cemetery is estimated to be about \$20,000, a higher price has been paid in the lost sense of security felt by those affected by this vandalism.

I know I speak for all honourable senators when I say that these actions are indefensible and must be strongly condemned.

It is sadly ironic that yesterday, March 21, the world observed the International Day for the Elimination of Racial Discrimination. That date commemorates the anniversary of the 1960 Sharpeville massacre in South Africa, when 70 peaceful anti-apartheid demonstrators were shot and killed by police. Although the world has made progress against all forms of bigotry since the Sharpeville massacre, there is still much to be done.

If there were any doubts that we must continue to work toward racial tolerance in our own country, the incidents of this past weekend have erased them. Canada is not immune to this

particular type of hatred. In fact, it is becoming an increasingly noticeable problem. B'nai B'rith recently released a study that found acts of anti-Semitism in Canada are now at their highest point in 20 years. The B'nai B'rith also says that the number of reported incidents has jumped over 27 per cent in just the last year.

In another sad irony, this past weekend also commemorated the sixtieth anniversary of the Nazi invasion of Hungary, which ultimately led to the murder of 500,000 Hungarian Jews. At a vigil to mark the anniversary, Judy Cohen, the volunteer chair at the Baycrest Centre in Toronto, said: "The Holocaust didn't start with mass murder. It started with words and prejudicial language and bigotry and deeds."

Honourable senators, all Canadians should be mindful of these words. We must be vigilant in holding to account those who perpetuate this violence. Actions similar to those of this weekend have no place in Canadian society.

**Hon. Senators:** Hear, hear!

#### CURLING

##### NOVA SCOTIA—CONGRATULATIONS TO WINNING TEAMS

**Hon. Terry M. Mercer:** Honourable senators, I will not seize the opportunity to talk about the events at the Conservative convention this weekend. Senator St. Germain talked to us about the leader of the month.

I rise, honourable senators, to talk to you as a proud Nova Scotian. To be a Nova Scotian is always a proud thing, but to be a Nova Scotian curler these days is even better. As an avid curler myself, I could not be more proud to be a Nova Scotian these days.

In what may amount to the biggest come-from-behind victories in the history of the Brier, the Nova Scotia men's team, led by skip Mark Dacey, with teammates Bruce Lohnes, Rob Harris and Andrew Gibson, captured the championship with a 10-9 win over Alberta. This is the first national win for a Nova Scotia men's team since 1951, when Halifax hosted the Brier.

This follows quickly on the heels of another win for Nova Scotia in curling. Colleen Jones and her teammates, including Kim Kelly, Mary-Anne Arsenault and Nancy Delahunt, captured the Scott Tournament of Hearts with a 7-4 win over Quebec, a record fourth straight championship for that team.

Both teams are from the Mayflower Curling Club in the heart of Halifax, the club where I learned to curl. These talented athletes have become the new powerhouse of curling in Canada.

I would also like to congratulate the junior women's team from Nova Scotia, who are currently representing Canada at the World Juniors now being held in Trois-Rivières. This impressive group — Jill Mouzar, Paige Mattie, Blisse Comstock and Chloe Comstock — captured the Canadian junior title earlier this year. This, I am afraid, senators, may lead to more cries of western alienation as all the championships move east.



Honourable senators, please join me as I extend my congratulations to these tremendous athletes on a job well done. I wish them every success in their pursuit of the World Curling Championships for Canada.

### INTERNATIONAL DAY FOR THE ELIMINATION OF DISCRIMINATION

**Hon. Donald H. Oliver:** Honourable senators, I wish to associate myself with the remarks of Honourable Senator Tkachuk. I, too, would like to remind honourable senators that yesterday, March 21, was the International Day for the Elimination of Racial Discrimination, a day that was established by the United Nations in 1966 and one that has been recognized and commemorated in Canada since 1988.

While this day was originally established in the years following the Sharpeville massacre of 1960 in apartheid South Africa and was meant to commemorate that horrific event, it has come to represent much more than that since its original declaration 38 years ago.

In Canada, this day symbolizes the fundamental Canadian values of respect, acceptance and tolerance of racial and ethnic diversity in our society and a public declaration of commitment by Canadians of all racial and ethnic backgrounds to the goal of upholding these values and eliminating the scourge of racism from our society.

Although we can take pride in past efforts at combating racism in Canada, we also have to acknowledge that racist attitudes continue to permeate certain segments of Canadian society and that Canadians continue to be victims of these attitudes. Therefore, we have to recommit ourselves to the goal of eliminating this mindset by continuing to promote a vision of Canada that is not just tolerant of racial and ethnic differences but accepting of them.

Honourable senators, all Canadians with good sense acknowledge that there is no place for racism in Canadian society. Racial discrimination and prejudice destroy the fabric of our society and undermine the values of respect, equality and diversity. Where racism and prejudice exist, they must be acknowledged and then they must be eliminated. As Canadians, we all need to take individual responsibility in this effort, and we must commit ourselves to promote values based on fairness, justice and mutual understanding.

Honourable senators, I am proud to live in a country as culturally diverse as Canada, and I am proud that we as Canadians acknowledge how rich this makes our society. However, as we commemorate the thirty-eighth anniversary of the International Day for the Elimination of Racial Discrimination, I ask that we heed the words of Nelson Mandela, who said:

I have cherished the ideal of a democratic and free society in which all persons live together in harmony and equal opportunity. It is an ideal which I hope to live for and achieve.

[ Senator Mercer ]

Along with many other Canadians, I also hope to live to see the ideal espoused by Mr. Mandela.

As we work together toward that goal, I ask that all of us use this day as a reminder that we each have a stake in building a country free of racism, where respect, acceptance and tolerance of racial and ethnic differences is a hallmark.

[Translation]

## ROUTINE PROCEEDINGS

### HUMAN RIGHTS

BUDGET AND AUTHORIZATION TO  
ENGAGE SERVICES—REPORT OF COMMITTEE  
ON STUDY OF LEGAL ISSUES AFFECTING  
ON-RESERVE MATRIMONIAL REAL PROPERTY  
ON BREAKDOWN OF MARRIAGE  
OR COMMON LAW RELATIONSHIP PRESENTED

**Hon. Shirley Maheu,** Chair of the Standing Senate Committee on Human Rights, presented the following report:

Monday, March 22, 2004

The Standing Senate Committee on Human Rights has the honour to present its

### THIRD REPORT

Your Committee, which was authorized by the Senate on Thursday, February 19, 2004, to examine and report upon key legal issues affecting the subject of on-reserve matrimonial real property on the breakdown of a marriage or common law relationship and the policy context in which they are situated, respectfully requests for the purpose of this study that it be empowered to engage the services of such counsel, technical, clerical and other personnel as may be necessary.

Pursuant to section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

SHIRLEY MAHEU  
Chair

(For text of budget, see today's Journals of the Senate, page 330.)

**The Hon. the Speaker pro tempore:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Maheu, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

## PARLIAMENT OF CANADA ACT

## BILL TO AMEND—FIRST READING

**The Hon. the Speaker *pro tempore*** informed the Senate that a message had been received from the House of Commons with Bill C-24, to amend the Parliament of Canada Act.

Bill read first time.

**The Hon. the Speaker *pro tempore*:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Rompkey, bill placed on the Orders of the Day for second reading two days hence.

• (2020)

## APPROPRIATION BILL NO. 4, 2003-04

## FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-26, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004.

Bill read first time.

**The Hon. the Speaker *pro tempore*:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Rompkey, bill placed on the Orders of the Day for second reading two days hence.

## APPROPRIATION BILL NO. 1, 2004-05

## FIRST READING

**The Hon. the Speaker *pro tempore*** informed the Senate that a message had been received from the House of Commons with Bill C-27, for granting to her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005.

Bill read first time.

**The Hon. the Speaker *pro tempore*:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Rompkey, bill placed on the Orders of the Day for second reading two days hence.

[English]

## TRAINING NEEDS OF SMALL BUSINESSES

## NOTICE OF INQUIRY

**Hon. Catherine S. Callbeck:** Honourable senators, pursuant to rule 57(2), I give notice that on Wednesday, March 24, 2004, I will draw the attention of honourable senators to the training needs of small businesses.

## OFFICIAL LANGUAGES

BILINGUAL STATUS OF CITY OF OTTAWA  
PRESENTATION OF PETITION

**Hon. Landon Pearson:** Honourable senators, pursuant to rule 4(h), I have the honour to table petitions signed by another 24 people asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that Parliament consider the following:

That the Canadian Constitution provides that English and French are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the government of Canada;

That section 16 of the *Constitution Act, 1867* designates the city of Ottawa as the seat of the government of Canada;

That citizens have the right in the national capital to have access to the services provided by all institutions of the government of Canada in the official language of their choice, namely English or French;

That Ottawa, the capital of Canada, has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners ask Parliament to confirm in the Constitution of Canada that Ottawa, the capital of Canada, is officially bilingual, pursuant to section 16 of the *Constitution Act*, from 1867 to 1982.

[Translation]

## BUDGET SPEECH

ACCOMMODATION OF SENATORS  
IN COMMONS GALLERY

**The Hon. the Speaker *pro tempore*:** Honourable senators, before we move on to Question Period, I want to remind the Senate that the Budget Speech will be given in the other place at 4 p.m., Tuesday, March 23, 2004.

As in the past, senators must take their seats in the section of the gallery reserved for the Senate in the House of Commons. Seating will be first come, first served.

[English]

As space is limited, this is the only way we can ensure that those senators who wish to attend can do so. Unfortunately, any guests of senators will not be seated.



## QUESTION PERIOD

### SOLICITOR GENERAL

#### AUDITOR GENERAL'S REPORT—SPONSORSHIP PROGRAM—INVOLVEMENT OF COMMISSIONER OF ROYAL CANADIAN MOUNTED POLICE

**Hon. James F. Kelleher:** Honourable senators, my question is for the Leader of the Government in the Senate. All of the agency heads involved in the sponsorship scandal have been suspended or fired, with the sole exception of the Commissioner of the RCMP. Of the \$3 million in sponsorship funds set aside for the one hundred and twenty-fifth anniversary celebrations of the RCMP, \$1.3 million went to Liberals who were connected with advertising firms and who were also acting as middlemen. A large portion of the funds received by the RCMP — with the knowledge of the commissioner — went into a separate, non-government bank account, which clearly violated federal rules. Some \$11,000 went to pay for the June 1998 regional ball in Montreal, at which the Prime Minister was the guest of honour.

In light of the foregoing, what action has been taken by the government with respect to the Commissioner of the RCMP?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I have not heard any accusation from Senator Kelleher of any malfeasance on the part of the Commissioner of the RCMP. I do not understand the question.

**Senator Kelleher:** Honourable senators, I have already stated in my question that the funds received went into a separate, non-government bank account, something that clearly violated federal rules and which the Auditor General has verified. I cannot be any clearer than that — hence, my question.

**Senator Austin:** Honourable senators, the Auditor General has reported on this event, and this event has been made at the request of the RCMP, subject to an investigation by la Sûreté du Québec. We have not received their report. Whatever is alleged by Senator Kelleher will be subject to a public report that will be tabled by la Sûreté du Québec on the matter in question.

### BUSINESS DEVELOPMENT BANK

#### AUDITOR GENERAL'S REPORT—SPONSORSHIP PROGRAM—INVESTIGATIONS BY ROYAL CANADIAN MOUNTED POLICE

**Hon. James F. Kelleher:** Honourable senators, in the BDC scandal concerning the firing of Beaudoin by Vennat and Carle, who were severely criticized, leading to the dismissal of Vennat, it has come out that Vennat personally called the Commissioner of the RCMP asking him to investigate Beaudoin, raid his home, and seize his personal papers. Within hours, the Mounties acted.

From my knowledge of the operational protocol of the RCMP, it would appear that Vennat and the EDC received preferential treatment. Why was this?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I do not accept the premise that preferential treatment

was given because I have no basis to do so, except the allegation of Senator Kelleher. There has been no evidence adduced publicly that the RCMP failed to seek the appropriate warrants for the search. One would have to assume that in the normal course these warrants were obtained and that a judge granted those warrants to the RCMP based on evidence provided by the RCMP, which may have been provided by the Business Development Bank.

I still do not follow the point that Senator Kelleher is making. I would welcome a supplementary question.

• (2030)

**Senator Kelleher:** Honourable senators, I think I have made the point that, from my knowledge of the operations of the Royal Canadian Mounted Police, stemming from the fact that I was Solicitor General for several years, normal procedures were not followed when, within hours after a phone call, the RCMP conducted their raids.

**Senator Austin:** Honourable senators, the investigations under way will demonstrate what took place, and I think we should wait for those factual reports.

### ROYAL CANADIAN MOUNTED POLICE

#### AIRBUS INVESTIGATION—INVOLVEMENT OF CONFIDENTIAL INFORMANT STEVIE CAMERON

**Hon. Gerry St. Germain:** Honourable senators, on a supplementary question in regard to the abuse of power to which Senator Kelleher referred, if an inquiry is under way, will that inquiry also encompass the utilization of the RCMP in the Airbus Eurocopter affair, where Stevie Cameron is now saying that she cannot defend herself at such an inquiry because she was named as a confidential police informant and that fact was made public by the RCMP? The question relates to this innuendo, unproven innuendo —

[Translation]

**The Hon. the Speaker *pro tempore*:** Honourable senators, I am sorry but this is not a supplementary question. Senator St. Germain is using this opportunity to ask another question.

**Senator St. Germain:** It is another question, but it is on the same subject.

**The Hon. the Speaker *pro tempore*:** It is not on the same subject at all.

[English]

**Senator St. Germain:** Honourable senators, my question is simply this: Will there be an investigation into what amounts to the same thing that was done by both Allan Rock and Stevie Cameron, namely, the utilization of the Royal Canadian Mounted Police in a witch hunt against Prime Minister Mulroney and others?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I reject absolutely the suggestion that the Royal Canadian Mounted Police Force has been politicized. I will maintain, until there is evidence of some kind to the contrary, that the RCMP is acting independently and on the basis of proper rules and procedures with respect to every one of the steps it has taken in the investigations mentioned by Senator Kelleher and by Senator St. Germain.

## SUPREME COURT OF CANADA

### APPOINTMENT PROCESS OF JUDGES

**Hon. Gérard-A. Beaudoin:** Honourable senators, today, Mr. Justice Iacobucci announced that he will retire at the end of June. As honourable senators know, Madam Justice Arbour will also leave the court in June to take up her new duties at the United Nations.

The Minister of Justice has said that the process of appointing Supreme Court judges must be re-examined. In fact, last December he said, "We intend to directly address this issue. I just need to put it before my colleagues in Parliament so that they will have first notice and understanding of what we are considering in this regard."

My question is: In light of the upcoming vacancies, can the Leader of the Government tell us when the minister will bring his proposal to Parliament?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, the view of the government is that the Supreme Court of Canada is the most important of judicial tribunals. Given the role that it plays in Canada today under the Constitution and with respect to the Charter of Rights, there should be some transparency concerning the manner of appointment. Accordingly, the Government of Canada is asking parliamentarians at this time to provide the Government of Canada with proposals as to the nature of the process that should be followed. It is clear that we do not seek an American type of judicial inquisition, but we do want to make it clear to Canadians that people who are appointed have been appointed on the most objective standards possible, with respect to their qualifications and with respect to their integrity, and that they have had a parliamentary review which, in the view of the Government of Canada, is an appropriate process to be followed in the 21st century.

[Translation]

**Senator Beaudoin:** Everything, of course, depends on the date of the election. If it is in April or May, understandably the government will not have the time to put a new appointment process in place.

If, on the other hand, the election comes later than that, but before the Supreme Court meets again in October, will Parliament be consulted, given the possibility of a deferred election date?

[English]

**Senator Austin:** Honourable senators, I cannot speculate about the date of a forthcoming federal election and how it will impact on the question of the nomination of Supreme Court judges. I can simply say that the priority for Canadians is always to address the issue of an election when a government seeks a mandate. Even if there are no replacements for Madam Justice Arbour and Mr. Justice Iacobucci, there will still be seven judges on the Supreme Court of Canada. The court will not cease to function; it can carry on with its duties. I cannot otherwise respond to Senator Beaudoin's question.

## CITIZENSHIP AND IMMIGRATION

### ROYAL CANADIAN MOUNTED POLICE INVESTIGATIONS INTO ALLEGATIONS OF BRIBERY

**Hon. Donald H. Oliver:** Honourable senators, my question, like that of Senator Kelleher, is about the RCMP, and is directed to the Leader of the Government in the Senate.

Last week, the RCMP laid a total of 278 charges against 11 people accused of pressuring immigrants to pay bribes in exchange for favourable outcomes at their Immigration and Refugee Board hearings. The RCMP said that between 50 and 60 immigrants were offered positive rulings in exchange for cash bribes of up to \$15,000. One of the accused, Yves Bourbonnais, is a former Liberal appointee to the board, who was named as a judicial officer despite the fact that he had been previously convicted in 1988 on breach of trust charges.

Will the Leader of the Government in the Senate tell us whether there are any other RCMP investigations under way involving the Immigration and Refugee Board?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, as our colleague the former Solicitor General Senator Kelleher would reply, there is no way that a minister can advise anyone with respect to investigations under way by the RCMP. They have no obligation to tell us, and they ought not to tell us, and I know nothing about ongoing investigations.

**Senator Oliver:** Honourable senators, according to media reports, most of the immigrants who were pressured to provide bribes were fighting deportation orders or challenging unsuccessful sponsorship applications, and some of those who eventually gained positive rulings have criminal records. Could the Leader of the Government in the Senate tell us if those cases connected with the recently laid RCMP charges will be re-examined by the Immigration and Refugee Board?

**Senator Austin:** Honourable senators, I have no information on that topic. I presume Senator Oliver knows that applications have been made for re-examination, but I have no such information. I will make an inquiry.



## FOREIGN AFFAIRS JUSTICE

### MIDDLE EAST AND DOMESTIC AFFAIRS— EFFORTS TO REDUCE VIOLENCE

**Hon. Douglas Roche:** Honourable senators, the Leader of the Government in the Senate will know that, in the last two years in Canada, attacks on Jews have doubled. The desecration of a Jewish cemetery in Toronto over the weekend is the latest incident of these deplorable hate crimes. The Toronto police chief says his force is now on high alert against anti-Semitic hate crimes.

Does the leader see any connection between domestic crimes against Jews and the continuing violence in the Middle East? The Israeli assassination yesterday of Mr. Yassin, the founder and spiritual leader of the Hamas, is another act in the violence that has been committed by both sides in the Middle East conflict.

• (2040)

What is the policy of the Government of Canada to reduce violence in the Middle East, and what is the policy to reduce hate crimes in Canada? In short, what is Canada doing to eliminate the terrible violence that scars Israeli-Arab relations that are at the heart of the struggle for peace in the world?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, Senator Roche's question gives me the opportunity to thank Senator Tkachuk for his statement earlier this evening with respect to anti-Semitism. Anti-Semitism is a scourge based on an evil mythology that obviously cannot even be eliminated by the death of 6 million people in the Second World War.

With respect to the hatred that lies in the souls of human beings, how shall we ever address it perfectly? How shall we ever eliminate it? We can only take these steps by building a civil and just society day by day in our own community. I applaud Chief Fantino of the Toronto police force for the outstanding measures he is taking to try to deal with the events taking place against the Jewish community in Toronto.

Finally, with respect to the question that relates to the Middle East, Canada does what it can to represent values of peace and support. Canada takes the position that a peaceful settlement in the Middle East must come through negotiation and, as such, tries to facilitate negotiation.

As Honourable Senator Roche knows as well as anyone in this chamber, the road map that was supported by the United States and by the European community is hardly a shadow of reality today in the Middle East. I wish I could find an answer.

If I may say so, years ago, Senator De Bané and I decided to travel to the Middle East together to settle the problem, but when we sat down to work out the details, we found no one wanted to talk to us.

**Senator Roche:** Honourable senators, I thank the leader for his thoughtful response to my question.

Hatred is at the heart of this domestic and international violence. I am not suggesting that governments can by themselves cure hatred, but they can do a great deal with aggressive campaigns to promote tolerance.

Does the government view the United Nations as a place where tolerance can be promoted and, thus, worthy of increased Canadian support in these turbulent times?

**Senator Austin:** Honourable senators, I can only say that the Government of Canada has every confidence that the United Nations is an instrument to promote tolerance and peaceful settlement of disputes and that Canada lends every effort to its efforts.

## PUBLIC WORKS AND GOVERNMENT SERVICES

### STATUS OF COMMUNICATIONS CANADA

**Hon. Marjory LeBreton:** Honourable senators, in December, immediately upon taking office, the Prime Minister announced that he was shutting down Communications Canada, the organization that ran the sponsorship program.

However, Communications Canada ran more than just the sponsorship program. When he disbanded it, the Prime Minister said the roles carried out by Communications Canada would "be reviewed quickly with a view to eliminating some activities while enhancing service to Canadians and finding significant savings."

Communications Canada was the government's publisher; it ran the main government Web site; it managed polling and advertising; it played a major role in media monitoring; it operated the government inquiry centre; it had a fairs and exhibitions program; and it served as a secretary to the cabinet communications committee. The government is not likely to let go of those tasks.

Can the government leader advise the Senate if, in fact, anything beyond the sponsorship program has been shut down?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, the program of advertising has been shut down until June 30 of this year, while a review of the government's advertising program is conducted.

**Senator LeBreton:** Honourable senators, on February 15, the cabinet approved an Order in Council dividing the work of Communications Canada between the Privy Council Office and the Department of Public Works. Part of it goes to the department that serves the Prime Minister, and part of it goes to the department that created the sponsorship mess in the first place.

Honourable senators, last year, through the Main Estimates, this program was voted some \$100 million. There was a separate vote and a separate report on plans and priorities that outlined how it planned to spend its money.

This transparency is gone. The Main Estimates this year give absolutely no information on how much Canadians will pay to carry on the work of Communications Canada. We asked the Treasury Board, and it did not know.

Could the government leader please advise the Senate as to the cost that will be incurred by the Privy Council Office and Public Works this year as a result of picking up the pieces of Communications Canada?

**Senator Austin:** Honourable senators, I would be pleased to take that question as notice and obtain the information.

### DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, I have the honour to present three delayed answers to oral questions posed in the Senate. The first is in response to an oral question posed in the Senate on February 17, 2004, by Senator Oliver, regarding foreign student visas obtained through educational institutions — master list of the legitimate schools; the second is in response to an oral question posed in the Senate on February 23, 2004, by Senator Moore, regarding the extension of the deadline for RRSP contributions for Nova Scotians; and the third delayed answer is in response to an oral question posed in the Senate on February 26, 2004, by Senator LeBreton, regarding the Auditor General's report — political interference in loans, forensic audit.

### CITIZENSHIP AND IMMIGRATION

#### FOREIGN STUDENT VISAS OBTAINED THROUGH EDUCATIONAL INSTITUTIONS— MASTER LIST OF LEGITIMATE SCHOOLS

*(Response to question raised by Hon. Donald H. Oliver on February 17, 2004)*

The oversight of provincial educational institutions is strictly a provincial responsibility. Typically, provinces are more heavily involved with institutions that receive government funding or are eligible for student assistance programs (i.e. loans et cetera).

A growing segment of the educational sector in Canada is private language schools. The level of regulation of this industry varies from province to province, however for the most part it is unregulated. Some provinces (not all) require registration of private language schools. It is important to note that a registration process does not mean that the institution is regulated. BC was the only province which introduced comprehensive legislation to regulate this sector but has since retracted it.

As there is no full regulation or registration by provinces of private schools that operate in Canada, there is no way to create a complete list of 'bona fide' schools. It is not within the Immigration mandate to assess the qualifications or perceived quality of educational institutions in provincial jurisdictions.

Immigration officers at Canadian missions abroad consider the merits of all applications to study (i.e. bona fides, criminality, security, health, adequacy of funds) and assess whether the applicant will leave at end of their authorized stay.

In general, if immigration officers have concerns about or are unaware of particular institutions, they can enquire at regional offices. There is no legal basis to refuse an applicant solely on the perceived quality of an educational institution. However, an applicant's bona fides may be reflected in a claim to study at a defunct or bogus school: such an application could be refused.

International students (like all travellers) have an obligation to do their own research before committing to studying in a foreign country and should do the same before registering in an institution. Wherever possible, Canadian officials inform students considering Canada as a study destination to check with provincial authorities concerning the quality and types of institutions, but many make their own choice based on the information available to them from friends, on school websites, et cetera.

Although study permits are not required for courses of less than six months, students can still apply for and receive a study permit. This will help facilitate their transition in Canada should they decide to alter their study plans once here. International students in Canada on a study permit who are concerned about the quality of their educational institution can apply to have their conditions of stay changed to study at a different institution. Those without a permit are free to study at other institutions provided the total duration of their course of studies does not exceed 6 months.

At the Federal-Provincial-Territorial Meeting of Ministers responsible for Immigration, which took place in Victoria on January 22, 2004, a proposal was put forward to establish a federal/provincial/territorial working group to look into the matter of unknown educational institutions and the establishment of a list of schools.

CIC is currently taking steps to formally engage its provincial/territorial stakeholders on this matter and will report on the progress at the next meeting, scheduled for the Fall of 2004.

### NATIONAL REVENUE

#### NOVA SCOTIA—WINTER SNOW STORM DELAY IN FILING FOR REGISTERED RETIREMENT SAVINGS PLANS

*(Response to question raised by Hon. Wilfred P. Moore on February 23, 2004)*

The Agency grants extension of such a deadline only under extraordinary circumstances where there is enough evidence that Canadians would be severely disadvantaged if these measures were not put in place.



In the case of the snowstorm that passed through the Maritimes, it is my understanding that operations returned to normal fairly quickly following the storm. Furthermore, most financial institutions have not invoked any special measures nor have they requested an extension to the deadline from the CRA. The CRA would exercise this discretion should the circumstances warrant it, now or in the future.

## BUSINESS DEVELOPMENT BANK

### AUDITOR GENERAL'S REPORT—SPONSORSHIP PROGRAM—POLITICAL INTERFERENCE IN LOANS—FORENSIC AUDIT

(Response to question raised by Hon. Marjory LeBreton on February 26, 2004)

- The Government has been very clear from the moment it learned of the Quebec Superior Court decision as to the seriousness with which it views the judgment.
- There are no plans for a forensic audit of the Bank's management and lending activities.
- However, the Auditor General of Canada is in the process of completing a Special Examination of the Business Development Corporation, as the Auditor General must do every five years pursuant to section 138(1) of the Financial Administration Act.
- This audit is examining the financial and management control and information systems and management practices of the Bank. You can be certain that both the Business Development Corporation and the government will give due consideration to the findings and the need, if any, for corrective measures.

[Translation]

## ORDERS OF THE DAY

### CRIMINAL CODE

#### BILL TO AMEND—THIRD READING

**Hon. Pana Merchant** moved third reading of Bill C-13, to amend the Criminal Code (capital markets fraud and evidence gathering).

She said: Honourable senators, the purpose of Bill C-13 is to amend the Criminal Code, in part in relation to evidence gathering. This is one element of the government's emphasis on protection against crime and crime prevention, and represents an important part of this assembly's agenda.

Soon we will be looking at Bill C-14, the purpose of which is to amend the Criminal Code in relation to dangerous weapons. It

includes provisions on offences relating to setting traps that can cause bodily harm or death. As well, it deals with the use of force and firearms on board aircraft.

These matters, coupled with those relating to firearms control, are a major cause of concern for Canadians and those in government. The Official Opposition has made changes to the gun registry part of its platform for the election that appears to be likely to take place in June.

In the March 10, 2004 *Globe and Mail*, the director of Crown Prosecutors for Ontario said the following:

• (2050)

[English]

...getting stiffer sentences for gun crime. We want to send a message to the streets that gun crime will not be tolerated.

Last month I received — and likely all Liberal senators received — a communication from one of our cabinet colleagues in the other place, inquiring about ideas related to problems with gun control legislation, enforcement, the issue of provincial reluctance to enforce and about the cost of the program.

In a variety of public and private ways, Canadians are engaged in the ongoing question of how we utilize firearms for legitimate uses, such as working use and use in sport, which in the West is a large part of our tourist industry, and at the same time seek to do better with the line between intruding on the rights of Canadians and the necessity of intruding to protect Canadians.

In this ongoing debate, I invite honourable senators to consider the concept of allowing each of the territories and each of the provinces to decide whether the gun registry law will apply in their area. I submit to honourable senators consideration of local optional legislation, which allows Parliament to establish nationwide laws but permits those laws to only be implemented in some of the provinces and territories. Such legislation gives provinces the possibility of opting in or out of the federal law.

Canada's gun registry system began in 1995 as Bill C-68 and resulted in the requirement that as of January 1, 2003, all firearms be registered. However, they are not and many provinces have refused to enforce the law, some by stating they will not enforce the law and some saying little but failing to enforce.

It is all the more appropriate, honourable senators, to consider local option legislation in relation to the gun registry with these changes as proposed in Bill C-13, Bill C-14 and Bill C-22, having regard to the fact that a number of provinces were of the view that the gun registry legislation ought not to be imposed upon them and that this matter had to be resolved by the Supreme Court of Canada considering the constitutionality of whether the legislation was provincial or federal in nature.

The best example of local option legislation was the Canada Temperance Act of 1927, which allowed local governments to prohibit the sale of alcohol within their borders based on a popular majority vote. Once a jurisdiction prohibited the sale of alcohol, the penalties and conditions laid out in the federal

[ Senator Rompkey ]

legislation applied. This method allowed regions that felt more strongly about selling alcohol to opt into prohibition. Constituted in 1878, the Canada Temperance Act remained active as amended well into the second half of the 20th century because the opt-in requirement allowed the law to be utilized where the people of the area thought it was appropriate for them.

A question arises concerning opt-in or opt-out legislation, whether applied to the gun registry law or other laws. Would a gun registry in some areas but not all make the law meaningless? The answer is no, and that is because of the underlying purpose of gun registry legislation. No one suggests, logically at least, that gun registration is likely to have a great impact on many in the criminal world. The primary suggestion of the efficacy of gun registration has to do with usually law-abiding people temporarily losing control. For example, it is suggested that when a domestic dispute is ongoing, knowledge that there are guns in the home is helpful.

The fear of a balkanization of gun registration merits inquiry, but bear in mind that the United States has different gun licensing and registry laws from state to state. That country even has different criminal laws from state to state. No one suggests that that country's criminal justice system or their policies for the protection of their public are models of success, but similarly no one suggests that the differing laws have been in any way the cause of the criminal problems experienced in that country.

There is a federal law regarding gun registration in Canada. Adopt it. Take it into your province. It applies. This is the opt-in concept of the Canada Temperance Act.

A lesser concept is the local option arrangement. The federal government says that if a similar law is passed, our legislation will not apply. The Contraventions Act of 1992 is a modern form of this local option arrangement. The federal government signed agreements with various provinces and territories that transform a number of federal offences into contraventions that may be dealt with through a provincial ticketing system. The Contraventions Act regulations provide that when a province signs an agreement with the federal government, the province can then issue a ticket to the perpetrator of one of those offences rather than taking him or her to court under the Criminal Code.

Six provinces have signed Contraventions Act agreements. Offences dealt with under the act include hunting without a valid licence, dangerous driving of a speedboat, and possession or discharge of a firearm in prohibited areas. Parliament, in Bill C-10, is now considering including simple possession of marijuana among the listed offences.

Both of these concepts — opt in or out — and the model of substituted laws allow Parliament to identify a significant issue that falls within federal jurisdiction while recognizing that obstacles stand in the way of blanket implementation across Canada. In the Canada Temperance Act, Parliament recognized that prohibition was an issue of national concern and yet was not willing to pass a blanket law on an issue that was clearly divisive in Canada.

By 1898, the prohibition movement was strong enough to force a national plebiscite on the issue, which passed supporting prohibition. However, Sir Wilfrid Laurier's Liberal government felt that the majority that voted in favour was not strong enough to warrant passing a Canada-wide prohibition law, particularly given that the population of Quebec had voted overwhelmingly no. The parallels of regional support for gun control in some areas and aversion in others are notable and profound.

Like the Contraventions Act, the Personal Information Protection and Electronic Documents Act of 2000 provides another modern example of the government allowing substituting legislation. This act applies to all personal information collected by federally and provincially regulated industries. However, provinces have the option of preventing application of the act within their borders by adopting legislation that is "substantially similar" to the federal legislation. The federal legislation applies until a province enacts its own mirror legislation. As an example, the act currently does not apply to organizations in Quebec because that province has adopted substantially similar legislation.

The Canada Temperance Act then was legislation that did not apply in an area unless that area opted in. The Contraventions Act and the Personal Information Protection and Electronic Document Act required a province to substitute, to remove itself from the effect of the Criminal Code provisions. Put simply, opt in or it does not apply. Number two, it applies unless you substitute.

• (2100)

With gun control, the Contraventions Act substitution option is no option. No province or territory wants to set up its own gun registry. The areas are either for it or against it, and they should have the option of saying so.

In practical terms, what steps are necessary to allow provinces and territories to opt out of the gun registry? Amendment in the other place is the first step. Second, local option legislation can be applied in a variety of ways. On how to implement a local option, Parliament might legislate that a province or region could opt out of the gun registry if two-thirds of the people voting in a referendum opted for their area to be out. Parliament might allow an opt-out on a simple majority. Parliament might give the power to the provincial or territorial government to opt out with or without a referendum.

This suggestion for consideration is in the context of various bills now before this house, including Bill C-13. Local option clauses are constitutionally valid. The principle was tested in our Supreme Court and before the judicial committee of the Privy Council. The concept in recent times has been adopted by the national government where it was seen to be appropriate. The notion is workable and appropriate for gun registry.



Honourable senators, while the current government is the same, it is to some extent new. I applaud that which is the same; I applaud that which is new. In the government's newness, I urge that consideration be given to a local opt-out approach to gun control. We have a new government; we expect new thinking. We are promised attention to the ideas and difference for people from the West.

Honourable senators, if we trust the people, let them decide.

**Hon. Charlie Watt:** Honourable senators, I wonder if Honourable Senator Merchant would be prepared to answer some questions?

**Senator Merchant:** I would be prepared to answer a question.

**Senator Watt:** I think I understand what the honourable senator has said and where she is coming from. I think the country is waiting for some solutions to these problems. Let me use two regions as an example. Nunavut is under federal jurisdiction. Nunavik is under provincial jurisdiction. You suggest that the regions could opt out; in other words, not allow the registry to apply to their people until they are ready or until they reach a certain stage. Is the honourable senator saying that Nunavut, being under federal jurisdiction, could negotiate with the federal government and make it explicitly clear that they are opting out of some aspects of gun control — maybe not all, because safety provisions are involved. Is that what the honourable senator is saying?

**Senator Merchant:** I am not sure if I understand exactly what you are talking about. Where there is a law that people will not obey, that law is meaningless. Coming from the West, I know that the gun registry is a big problem. It will be an issue. I hope this government will be prepared to look at alternatives. These were just some ideas that I had been thinking about and that other people have discussed with me. We make allowances for many things, for different people in different areas. Perhaps these ideas need to be refined a bit. I wanted to speak for the part of the country where I live and to put on the record our concerns, and perhaps to stir honourable senators to think of some solutions.

I am not sure I have an answer to Senator Watt's question. As I have explained, opting in or out are options. If a province had similar legislation of its own, it would not have to abide by the federal legislation.

I hope that answers the question of the honourable senator.

**Senator Watt:** The honourable senator is absolutely right. We must find innovative solutions to these problems. The bill itself is potentially explosive. That has been especially highlighted by what has happened in Toronto recently. I applaud the honourable senator for bringing forward those ideas. I believe there are solutions.

Nunavik, as I mentioned, is under provincial jurisdiction. For that reason, we would have to enter into negotiations with the provincial government on opting in on certain stages and not others. We could work out scheduling aspects in that regard.

I welcome the potential solutions to the problem.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read third time and passed.

# **BILL RESPECTING EQUALIZATION AND AUTHORIZING THE MINISTER OF FINANCE TO MAKE CERTAIN PAYMENTS RELATED TO HEALTH**

## **SECOND READING**

On the Order:

Resuming debate on the motion of the Honourable Senator Ringuette, seconded by the Honourable Senator Trenholme Counsell, for the second reading of Bill C-18, respecting equalization and authorizing the Minister of Finance to make certain payments related to health.

**Hon. Gerald J. Comeau:** Honourable senators, Bill C-18 proposes to extend the equalization program for another year until March 31, 2005. It authorizes a one-time supplementary transfer to the provinces of \$2 billion for health care. The special health care payment was promised more than a year ago, provided the surplus was big enough when January rolled around. The government then strung it out for a full year before finally saying, at the end of January, that the provinces would get their money. However, this is a one-time payment. As we all know, health care costs next year will not be any less than they were in this current year.

Against this background of a one-time \$2 billion payment, we have an anticipated multi-billion-dollar drop in equalization payments owing to a combination of revised population numbers and the recent softness in the Ontario economy. The critical role played by the equalization program in Confederation is well known. It was designed to help provincial governments offer comparable levels of services at comparable levels of taxation. It is a needs-based transfer. Funds are distributed based on a formula that measures the ability of each provincial government to raise revenue. Payments themselves are guaranteed under the Constitution Act of 1982 — as my colleagues well know — an act which commits Parliament and the Government of Canada:

...to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation.

Today's debate is not about the principle of equalization, nor should it be. Rather, we are debating a highly unusual request to extend the program for a year, rather than to renew it, as should properly be done.

The equalization program has a sunset clause of March 31, 2004. That date was set when the program was last renewed five years ago. As honourable senators can see by the calendar on the Table, this is March 22. We are moving towards the deadline.

• (2110)

In January of 1999, the details of the renewed program were decided. The legislation was introduced in February and it was law by the end of March. There was no need for just-in-time legislation. The government was not dithering on what it was willing to do up to the last minute. We are told that when the government finally brings in detailed legislation to reform the equalization program, it will be retroactive and will override this bill.

Paul Martin will call an election as soon as the public opinion polls look favourable. Any promised improvement to the equalization program will be just another election promise made by the same Paul Martin who wrote, and then burned, the original Red Book.

Equalization represents the lion's share of what are known as fiscal arrangements, an envelope that includes transfers to the territories as well as a few smaller transfers. A year and a half ago, in the fall of 2002, in an economic and fiscal update, and then again in the 2003 budget, the government said it was expecting to spend \$12.7 billion on fiscal arrangements for fiscal 2002-03. Then along came the 2003 economic and fiscal update and, sorry, but the number should have been \$10.3 billion. Too bad for the provinces in need. We need to get a couple of billion dollars back from you. A billion of that is due to new census figures. The balance is because the finance department overestimated growth in Ontario.

Imagine the difficulty for the smaller provinces — such as Nova Scotia, and your province as well, Senator Cochrane — that need to be able to prepare budgets and estimate revenue, and are not cash-rich. They struggle to find every penny they can and suddenly they get an announcement that there will be clawbacks. Moreover, for each and every fiscal year going out to 2007-08, the government has slashed between \$2 billion and \$2.4 billion from the 2002 projected payments. Under the fiscal arrangements program, that is a total of more than \$13 billion over six years.

Honourable senators, our Standing Senate Committee on National Finance undertook a detailed study of the equalization program in the fall of 2001 and reported in early 2002. In examining the issues raised by the numerous witnesses who came before it, the committee was guided by five broad principles. First, the program should be equitable. There should be a fair distribution of entitlements among the provinces. Second, payments should be adequate to allow recipient provinces to provide comparable services without resorting to unreasonable taxation levels. Third, the program should be sustainable over time. Fourth, the program should be designed so that it is neutral in its effect on other government policies, and changes in the programs should not influence government behaviour, nor should a province's revenue policies affect its level of entitlement. Finally, the workings of the equalization program should be transparent. Formula and criteria should be as clear as possible and understandable to everyone.

The committee made a number of recommendations that the Minister of Finance might consider if ever he gets to looking at

this important program. It may be that a new government will be looking at the program, however, since it seems that we may be due for a change quite soon.

The committee made a number of recommendations that should be quite important. First, the minister should reject the so-called macro-formula because it might be unfair to several provinces. That is one of the formulae that should be rejected. He should lift the ceiling on equalization payments, which we were pleased to see done in the February 2002 budget. In fact, sometimes our recommendations are heeded. This ceiling used to restrain the growth of payments. The minister should keep the flow low, under which payments cannot fall. This particular safeguard kicks in when a province's fiscal capacity increases or its population declines.

The idea is to prevent a sudden and dramatic drop in federal transfers. Currently, the floor limit per capita declines no more than 1.6 per cent of the standard, about \$98 per person. Since this provision was introduced in 1982, there have been 14 floor payments to provinces, totalling a cumulative \$1.2 billion. Ten of these payments have been made in the last four years.

Another recommendation concerned unexpected changes to the way parts of the formula are calculated. The equalization program uses 33 different revenue bases to arrive at each province's entitlement. Economics is not an exact science. Sometimes economists will change the way in which they measure some numbers because they think that they have found a better way. A very real example happened a few years ago when Statistics Canada changed the way in which it measures residential property values, deciding to switch to provincial price indexes from the national index. This may have been more precise, but the practical effect was to cut several hundred million dollars from Quebec's entitlements while adding significantly to that of British Columbia. Faced with this outcome, the government delayed the formula change for a year.

Provinces should not have to face fiscal surprises. For this reason, the committee recommended that Ottawa create some kind of a consultation process with the provinces and Statistics Canada when changes to the variables in the equalization formula are contemplated.

Another recommendation concerned the switch to what is known as the 10-province standard from the current five-province standard. The five-province standard removes the influences of the four low revenue provinces of the Atlantic region and the high revenue Province of Alberta from the entitlement calculations. The government takes the view that the five-province method is more stable. The recipient provinces have raised legitimate concerns that this does not properly compare the fiscal capacity of all of the provinces, resulting in lower entitlements.

The committee believed that a five-province standard does not fulfil the intent of the program, which is to provide adequate funding that allows the provinces to provide comparable services to their residents. A five-province standard may provide stability, but also provides inadequate payments.



The committee also considered the issue of non-renewable resources presently calculated in the entitlements. The committee was very conscious of the problem that some provinces face in fostering economic development, particularly in Atlantic Canada. The loss of equalization benefits can offset the gain from increased developments. Nova Scotia and Newfoundland are only getting a small fraction of the revenue from offshore development since most of it is clawed back from their equalization entitlements. In light of this, the committee recommended that the rules be changed so that more of a province's entitlements are protected when non-renewable natural resource revenues increase.

The committee also recommended that the government undertake an evaluation of the equalization provisions of the Atlantic accord to determine if they have met the intent for which they were designed. I believe the new energy minister from Newfoundland considers this one of the options that he would like to see. I do not know how successful he will be. I hope that we support him in his efforts to have this looked at more closely.

Honourable senators, I hope that these recommendations are being taken seriously by the government. I look forward to our committee's study of this bill, when and if it ever comes before us. Had it been done properly this time around, we would not be doing this temporary bill but we would be voting on the new formulae as we speak.

In the meantime, given that an election takes priority over such important issues, and given that the equalization bill comes to an end on March 31, 2004 — and as I noted earlier we are now at March 22 — we have little choice but to proceed with this interim measure. For that reason, I would ask honourable senators to send this bill as soon as possible to the committee for full consideration.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Some Hon. Senators:** Question!

**The Hon. the Speaker:** Do you wish to speak, Senator Ringuette? If you do, your speech will have the effect of closing the debate.

• (2120)

**Hon. Pierrette Ringuette:** Honourable senators, I was under the impression that I should move this bill to committee.

**The Hon. the Speaker:** First, we must deal with the bill.

Are honourable senators ready for the question on the bill?

**Some Hon. Senators:** Question!

**The Hon. the Speaker:** It was moved by the Honourable Senator Ringuette, seconded by the Honourable Senator Trenholme Counsell, that this bill be read the second time.

Is it your pleasure, honourable senators to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Ringuette, bill referred to the Standing Senate Committee on National Finance.

[Translation]

## LIBRARY AND ARCHIVES OF CANADA BILL

### REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the third report of the Standing Committee on Social Affairs, Science and Technology (Bill C-8, to establish the Library and Archives of Canada, to amend the Copyright Act and to amend certain Acts in consequence, with amendments), presented in the Senate on March 11, 2004.

**Hon. Yves Morin:** Honourable senators, I have the honour to present the report of the Standing Senate Committee on Social Affairs, Science and Technology, on Bill C-8. The committee has recommended three amendments to this bill.

[English]

Bill C-8 provides for the creation of a new institution to be known as the library and archives of Canada, which will be the successor to the National Library of Canada and to the National Archives of Canada. This legislation maintains the existing powers and responsibilities that were accorded to both the National Archives of Canada and the National Library of Canada under their respective statutes and combines them into one single statute.

Upon proclamation of this legislation, the National Archives of Canada and the National Library of Canada will be dissolved. This bill modernizes the existing functions and powers of the two institutions and harmonizes activities that were previously conducted individually by both institutions.

Your committee is recommending only three amendments to Bill C-8, all of which serve to tighten up this worthy piece of legislation. It is beneficial to understand the context of the first amendment, for the clause that was deleted has been the root of much discussion.

The merger of the National Archives and the National Library has the broad support of stakeholders and of all parties. However, Bill C-36, as Bill C-8 was known in the previous session of Parliament, was delayed in Parliament due to a proposed amendment to the Copyright Act in clause 21 of the bill. This clause proposed to extend until 2017 the period of copyright protection for the unpublished works of deceased authors set to expire on December 31, 2003.

Also, the Standing Committee on Canadian Heritage adopted the bill with the clause intact. It was amended at third reading with unanimous consent of the House. In its amended form, the clause provided a three-year extension, until 2006, of protection for unpublished works so that the copyright provision could be given more consideration. However, Parliament was prorogued before the bill could be passed. As such, this clause became obsolete on December 31, 2003, when the works in question came into the public domain. To retroactively apply copyright protection would be a complex, if not impossible, undertaking. For this reason, the committee completely removed clause 21 from the bill.

The two other amendments are purely technical in nature. A month after this bill was tabled in the House, a new piece of legislation known as Bill C-44, the Injured Members Compensation Act, was introduced and passed in the last session of Parliament. One of the clauses in the bill makes reference to the National Archives of Canada. Since Bill C-44 did not exist at the time when this bill was drafted, it was necessary to insert a coordinating amendment into Bill C-8 to change the reference from "National Archives of Canada" to "Library and Archives of Canada."

A final technical amendment was made to clause 53. In the last session of Parliament, the Assisted Human Reproduction Act was known as Bill C-13. The amendment to clause 53 was made to reflect that this bill is now known as Bill C-6.

[Translation]

Honourable senators, Bill C-8 was adopted unanimously as amended by the Standing Senate Committee on Social Affairs, Science and Technology. I therefore invite you to adopt the report of your committee.

[English]

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Some Hon. Senators:** Question!

[Translation]

**The Hon. the Speaker:** It was moved by the Honourable Senator Morin, seconded by the Honourable Senator Massicotte, that this report be adopted now.

Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and report adopted.

[English]

**The Hon. the Speaker:** When shall this bill, as amended, be read the third time?

On motion of Senator Morin, bill placed on Orders of the Day for consideration at the next sitting of the Senate.

## AGREEMENT ON INTERNATIONAL TRADE IMPLEMENTATION ACT

BILL TO AMEND—SECOND READING  
SUBJECT MATTER REFERRED TO COMMITTEE

**Hon. James F. Kelleher** moved second reading of Bill S-14, to amend the Agreement on Internal Trade Implementation Act.—(*Honourable Senator Kelleher, P.C.*)

He said: Honourable senators, I am pleased to speak to this bill. It is a short bill because it merely adds teeth to some existing obligations that both the Government of Canada and the provinces agreed to about 10 years ago.

Honourable senators may recall that the Agreement on Internal Trade was signed by former Prime Minister Chrétien and other first ministers in July 1994. The federal-provincial agreement was implemented by federal legislation entitled the Agreement on Internal Trade Implementation Act. The bill will amend this act because it is clear that the agreement has not produced the desired effects and that further action is required. It is no secret that when the provincial first ministers recently established the Council of the Federation, they specified that internal trade is a priority area for cooperative intergovernmental action. I agree, which is why I am introducing this bill today.

Before I describe the legislation I am proposing, I think it is important that we fully understand the problem this bill will help correct. Let us first recognize that, unlike the United States or the European Union, Canada does not have a large domestic market of 300 million people or more. Instead, our internal market is about 30 million people. Rather than take full advantage of our domestic market, we have allowed interprovincial trade barriers to balkanize our internal market. As a result, we are forgoing the economies of scale and efficiencies we need to compete globally.

• (2130)

There is ample evidence that the private sector believes that the Agreement on Internal Trade is not working. For example, in January, the Chamber of Commerce wrote to the chair of the Council of the Federation, British Columbia's Premier Campbell, and reminded Canadians that "barriers to trade and labour mobility compromise Canada's competitiveness and discourage business from investing and seeking opportunities within Canada." In addition, the Chamber of Commerce observed that "for many industries, it is easier to trade internationally than it is between provinces." The premiers have also recognized that the "perception in Canada remains that there are more barriers to domestic trade than to international trade."

In far too many cases, foreign investors can gain better access to the Canadian market by locating in the United States and relying on the North American Free Trade Agreement, the NAFTA, than by locating here at home and relying on the Agreement on Internal Trade.



As a former federal international trade minister, I have always found it unacceptable that Canada cannot apply to our internal domestic market the same principles of trade liberalization that we apply to our foreign trading partners. When we launched the Canada-United States Free Trade Agreement talks in 1985, I had hoped that this might act as a catalyst for opening up interprovincial trade in Canada. Unfortunately, this has not happened. Almost two decades later, serious problems remain.

Canadian businesses are finding their growth opportunities in international markets rather than within Canada. The contrast between the growth in interprovincial trade and international trade is striking. On the one hand, interprovincial trade represents about 20 per cent of our gross domestic product.

**The Hon. the Speaker:** I am sorry to interrupt, honourable senators, but I would ask for your attention to Senator Kelleher's speech. I note that a number of conversations are taking place in the chamber. If honourable senators need to have these conversations, please carry them on outside of the chamber.

**Senator Kelleher:** Thank you, Your Honour.

On the one hand, interprovincial trade represents about 20 per cent of our gross domestic product. On the other hand, international trade has outgrown interprovincial trade, and international trade now represents over 40 per cent of Canada's GDP. These figures demonstrate that our international trade agreements are working well, but we need to do more to liberalize our internal domestic market.

This bill will help promote interprovincial trade by fixing one of the most widely recognized problems with the Agreement on Internal Trade, that is, the lack of an effective dispute resolution mechanism.

The provinces have recently made this a top priority, and so should we. For example, at the February Council of the Federation meeting, New Brunswick Premier Lord and Manitoba Premier Doer presented their report on internal trade. In their work plan, the premiers identified improving the dispute resolution mechanism as both short-term and longer-term objectives.

Ontario Premier McGuinty hit the nail on the head regarding the dispute resolution shortcomings, when he observed: "The problem was they never put an authority in place where business could seek redress if they felt they faced an unfair barrier to trade."

In particular, the premiers have recognized that dispute panel decisions are not being effectively implemented. Under the current agreement, there is no binding dispute mechanism. As legislators, we all know that rules are only credible when they are enforceable — when they have teeth — which is why I am introducing this bill to amend the Agreement on Internal Trade Implementation Act.

Instead of creating another bureaucracy or commission to administer the agreement, I believe we should use our existing judicial structure and provide persons with access to the courts to redress their internal trade grievances.

This bill will provide a right of action to persons who have suffered loss as a result of a breach of certain provisions of the agreement. The bill is three pages in length, and contains two clauses.

Clause 1 of the bill makes it clear that this proposed legislation will be binding on the Government of Canada and the provinces. To ensure that we are on firm constitutional ground, I have drafted this bill in close consultation with the office of the Law Clerk and Parliamentary Counsel, and we have obtained a 17-page constitutional opinion from the Dean of the Osgoode Hall Law School of York University, Professor Patrick Monahan.

The legal opinion that Dean Monahan has provided to the Senate Law Clerk and Parliamentary Counsel unequivocally states that this bill is within the legislative competence of the Parliament of Canada.

Clause 2 makes it clear that this bill is merely adding another step to the Person-to-Government Dispute Resolution process that currently exists under Part B of Chapter Seventeen of the agreement.

If a dispute panel finds that an act or omission of a federal or provincial government is contrary to any of the provisions specified in the bill, any person who has suffered loss or damage as a result of the act or omission may bring an action for damages in a court of competent jurisdiction.

In a nutshell, we are not reinventing the wheel or creating another costly bureaucracy. Instead, we are building on the existing dispute resolution mechanism and making it more binding and effective. This is an incremental amendment that will remedy a problem that has dragged on for far too long in this country.

Honourable senators, I believe that Canadians will not achieve their full economic potential unless we have clear and enforceable rules that eliminate interprovincial barriers to trade, investment and labour mobility.

Allow me to conclude by reminding us all that liberalizing internal trade is not just about strengthening the Canadian economy. We must also recognize that Canada will not achieve its full potential as a national political union unless we create a strong internal economic union. The more we trade together, the more we will appreciate and understand one another. In 1985, the Macdonald Commission summed this up succinctly — and I quote:

The objective of building a Canadian economic union has meaning because we are first a national political community. Threats to the economic union are threats to the national community because they erode the ties of affinity and interest that bind Canadians together.

Honourable senators, this will help us build a stronger Canada. Allowing this country's internal economic fragmentation to continue will not promote our national identity. History has shown that the flow of people, information, ideas and culture reflects a nation's commercial relations. This is why we cannot allow Canada's foreign commercial relationships to grow stronger than our internal trading relationships.

In the last couple of decades, we have strengthened our international trading relationships with the United States and with many other countries. We must now strengthen the economic ties that bind us together as a country.

In addition to a strong social union, Canada must build a vibrant economic union. The bottom line is that Canada's internal trade has not played the role it should in creating economic benefits for Canadians, strengthening our identity as a country and promoting unity.

Honourable senators, I ask that you join with me so that once again this chamber can demonstrate to Canadians that we can work together in a constructive, bipartisan manner in the national interest and pass this long overdue amendment.

• (2140)

#### SUBJECT MATTER REFERRED TO COMMITTEE

**Hon. James F. Kelleher:** Honourable senators, I should like to move, seconded by Senator LeBreton, that the subject matter of Bill S-14 be referred to the Standing Senate Committee on Banking, Trade and Commerce.

**The Hon. the Speaker:** It is a little unusual, Senator Kelleher, not to allow further debate, but I can see nothing wrong with your motion. Accordingly, I shall put the motion.

It was moved by the honourable Senator Kelleher, seconded by the Honourable Senator LeBreton, that the subject matter of Bill S-14 be referred to the Standing Senate Committee on Banking, Trade and Commerce.

Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** No senators rising to speak, I shall put the question.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

#### BUSINESS OF THE SENATE

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, if you were to poll the chamber, I think you would find agreement to stand all other items on the Order Paper in the order in which they stand for consideration at the next sitting of the Senate.

**The Hon. the Speaker:** Honourable senators, is leave granted for the agreement that Senator Rompkey has just recited, that all remaining matters on our *Order Paper and Notice Paper* stand in their place until the next sitting of the Senate and that we proceed to the adjournment motion?

**Hon. Senators:** Agreed.

The Senate adjourned until Tuesday, March 23, 2004, at 2 p.m.



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CANADA

# Debates of the Senate

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OFFICIAL REPORT  
(HANSARD)

Tuesday, March 23, 2004

THE HONOURABLE DAN HAYS  
SPEAKER





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## THE SENATE

Tuesday, March 23, 2004

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, before we proceed with our business, I would like to draw to your attention the presence in our gallery of a delegation from the Chamber of Representatives of the Oriental Republic of Uruguay. They are Dr. José Amorin Battle, the Speaker of the Assembly; Mr. Gustavo Penades, a former speaker and a member of the National Party; and Mr. Guillermo Alvarez of the Broad Front. They are also accompanied, in the case of the Speaker, by Maria Elia Del Campo de Amorin, and in the case of Ambassador Moerzinger, whom I have not introduced, by his wife, Ana Luisa.

Welcome to the Senate of Canada. We are pleased to have you with us.

**Hon. Senators:** Hear, hear!

### SENATORS' STATEMENTS

#### TRIBUTES

##### THE LATE HONOURABLE ERNEST G. COTTREAU

**The Hon. the Speaker:** Honourable senators, I have received a letter from the Leader of the Government in the Senate, the Honourable Senator Austin, pursuant to rule 22(10) of our rules requesting that the time provided for consideration of senators' statements be extended today for purposes of paying tribute to a former colleague, the Honourable Ernest Cottreau, who passed away on March 7, 2004.

[Translation]

**Hon. B. Alasdair Graham:** Honourable senators, the Honourable Ernest G. Cottreau left us recently, at the age of 90 years. His remarkable contribution to this institution between 1974 and 1989 will long be remembered.

[English]

The Ernie Cottreau whom I was privileged to know was a wonderful man with a real commitment to his community in Nova Scotia, his country, this chamber and, of course, his Acadian roots. I believe he would be proud to be remembered in this way in the Senate, particularly in this year which marks the four hundredth anniversary of the arrival of the original 100 or so first French families who settled along the shores of what was known as the Baie française, now the Bay of Fundy, in 1604.

Today, over 40,000 Nova Scotia Acadians can be found throughout the Province of Nova Scotia, with some of Canada's most significant and moving historic sites bearing testimony to a proud, yet sometimes tragic, legacy. Over the centuries following the deportation of 1755-63, the Acadian community struggled courageously to survive with its language and culture intact.

Former Senator Ernest Cottreau was one of the great voices in bringing hope and new confidence to the Acadians of my part of the world, most particularly through his distinguished career as an accomplished educator. A teacher affects eternity, it was once said. He or she can never tell where his or her influence will stop. In Senator Cottreau's case, this was particularly true as he instilled a great pride of place and inheritance in his many students.

In his memory, I would like to pay tribute to the four hundredth anniversary of a nation which has fought the vicissitudes of history, followed its flag — ce drapeau, le tricolore étoilé, une marque de fierté nationale — and now basks in the sunshine of proud accomplishment.

In a very important way, the hard work and dedication of fine educators and parliamentarians like the late Ernie Cottreau has helped keep the Acadian dream alive. As such, the lovely land of Evangeline remains a proud and living tribute to those 100 families of so long ago who sowed the seeds of a vibrant, culturally rich nation which has played such an extraordinary role in the development of this great country.

[Translation]

To his family, I offer my most sincere condolences.

**Hon. Gerald J. Comeau:** Honourable senators, I wish to join Senator Graham in paying tribute to a friend and a predecessor here in the Senate, the Honourable Ernest Cottreau of Yarmouth, Nova Scotia.

His colleagues in the Senate will remember his kindness, his courtesy and his calm. He was a highly respected man and devoted to the Acadian people. Senator Cottreau had a very interesting career. He was a professor at the Université Sainte-Anne, the owner of an automobile dealership, a school principal, and a senator.

I had the pleasure of working with Senator Cottreau when I was a member of Parliament.

• (1410)

His office was very close to mine, on the fifth floor of Centre block. We often met to discuss our common interests: Acadian affairs, the fishery, and the economy of southwest Nova Scotia.

He dedicated his life to helping the people in his region and he was, above all, an ardent defender of the Acadians. His interest in the business of this chamber continued even after he retired from the Senate after 15 years of service, from 1974 to 1989. He continued to closely scrutinize *The Debates of the Senate*. From time to time, he would call me to discuss what he had read or offer some advice and sometimes, to tease me a little, but always with the utmost courtesy.

He was very involved in his community: the Canadian Cancer Society, the Kiwanis Club, the Club acadien, the Knights of Columbus and the list goes on. He was president of the Liberal Association. He also devoted himself to the Université Sainte-Anne. In 1994, the university awarded him an honorary doctorate and named a meeting room at the university library in his honour.

Honourable senators, he leaves behind his daughter, Simone, and his charming wife of 61 years, Rachael. They should be extremely proud of his legacy and his accomplishments, particularly his role in Canada's development. On behalf of all his friends here in the Senate, I offer his family and many friends our sincerest condolences.

[English]

**Hon. Terry M. Mercer:** Honourable senators, it is with great respect and humility that I rise to pay tribute to the life of a great man. Senator Ernest Côtteau, who passed away at the ripe old age of 90 in Yarmouth, was the epitome of a great Liberal. Born in Wedgeport, he graduated with honours from the Université Sainte-Anne in 1937, where he remained to teach for a time. His commitment to youth was only rivalled, I believe, by his love of Acadian heritage. He was president of the Liberal Association in 1955, served on many committees and boards and was a devout member of the Knights of Columbus.

Ernie Côtteau was both a hard worker and innovative. His 15-year ownership of Baker Motors showed just how much business savvy he possessed. Many in this chamber did not know of his business background. However, his love of teaching soon prevailed once more and he returned to become principal of a local school.

Senator Côtteau contributed to his community, his province and his country, providing a lifetime of service to his fellow citizens. We will remember him as dignified, cheerful individual, one who was a very proud Canadian, a very proud Acadian and Nova Scotian, and a very proud Liberal. I offer my condolences to his wife and daughter at this time.

#### BUSINESS OF THE SENATE

**The Hon. the Speaker:** Honourable senators, I believe I have seen all senators wishing to pay tribute to Senator Côtteau.

I have received two requests that tributes be paid to Senators Roche and Robertson on April 1. Rule 22(10) of the *Rules of the Senate* provides that only one tribute be paid per sitting day.

Honourable senators, notwithstanding rule 22(10), is it agreed that on Thursday, April 1, 2004, tributes be paid to the Honourable Senator Roche and the Honourable Senator Robertson?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Agreed and so ordered.

#### THE LATE HONOURABLE MITCHELL SHARP, P.C., C.C.

**Hon. Marie-P. Poulin:** Honourable senators, a sadness and sense of loss enveloped me when I learned of the passing of a giant of Canadian politics, the Honourable Mitchell Sharp. It was an honour and privilege to count him as a friend. In expressing my profound sympathy to his wife, Madame Jeanne d'Arc Sharp, and to his son and family; I find solace, as I sincerely hope they find, in the pride and fond memories of being on the receiving end of his charm, of being enlightened by his wit and intellect, and of being reassured by his calm and elegance.

As I read the chronicle of his brilliant career in Saturday's *Ottawa Citizen*, I was touched by my personal recollections that one large coloured picture evoked. The published photograph was taken one year ago in my home at the unveiling of his portrait, which my husband had been commissioned to paint by Ms. Sharp. With Mr. Sharp seated in the foreground, the portrait shows him at his beloved piano against a wall on which are hung the pictures of four Liberal Prime Ministers whom he served over more than six decades — the Right Honourables Louis St. Laurent, Lester B. Pearson, Pierre Trudeau and Jean Chrétien. During the time that Mr. Sharp sat for his portrait, he captivated Bernard with his renowned talent for story-telling, displaying not one iota of self-consciousness at being studied by the artist, so absorbed was he in being the conversationalist.

Fittingly, a headline in the *Ottawa Citizen's* obituaries declared him "Canada's political gentleman." Indeed, he was. A man of integrity and intellect, Mitchell Sharp became, the newspaper observed, "one of the most powerful, respected and best-dressed figures in Canadian political history." The life of Mitchell Sharp was one from which legends are created.

Born into a struggling family of Scottish immigrants who had settled in Winnipeg, Mr. Sharp started work as a printer's delivery boy to help raise a younger brother and sister. By dint of effort and blessed with a potent mind, he rose into the rarefied realm of the corporate world and could quite conceivably have become a business titan, except for one thing: He found his true vocation in politics. Mitchell Sharp was an economist, a pianist and patron of the arts, a senior civil servant, a cabinet minister, a pillar of strength in times of crises and a statesman who forged diplomatic ties. He was a man for all seasons and a Canadian champion, one who will be missed but not forgotten.

Honourable senators, please join me in extending our condolences to the family of a political icon of both substance and style.



## INTERNATIONAL DAY FOR THE ELIMINATION OF RACIAL DISCRIMINATION

**Hon. Mobina S. B. Jaffer:** Honourable senators, it was on March 21, 1960, that a peaceful protest in Sharpeville, South Africa, against apartheid became a slaughter that saw 69 people murdered in the streets by police. In commemoration of that day, the United Nations, in 1966, adopted resolution 2142 on the elimination of all forms of discrimination and recognized March 21 as International Day for the Elimination of Racial Discrimination.

Canada has long been proactive in fighting racial discrimination and promoting racial harmony both domestically and internationally. The Canadian Multiculturalism Act, 1988, is an excellent example of this kind of leadership. The Canadian Multiculturalism Act commits the Government of Canada to policies aimed at promoting multiculturalism and diversity as fundamental characteristics of Canadian heritage. It also promotes the elimination of barriers to the full participation of individuals and communities of all origins.

These kinds of commitments as well as the designation of a member of cabinet as the Minister of State for Multiculturalism have placed Canada at the forefront of reducing racial discrimination in society.

However, honourable senators, March 21 should remind us that, despite how far we have come, we have not yet succeeded in eliminating racial discrimination within our society. We must continue to move forward and not backward.

• (1420)

In a world now changed by the threat of international terrorism, we have seen a drastic move towards security that sometimes conflicts with our multicultural values. The effects of our Anti-terrorism Act conflict with our treasured values of multiculturalism and diversity, and the new steps threaten to further jeopardize our country's harmony by alienating and discriminating against communities within our society.

Honourable senators, March 21 should be a reminder that, when we consider these issues, we have a responsibility to remember that the elimination of discrimination means making every Canadian feel that they are equal and that they belong in our great country.

**Hon. Senators:** Hear, hear!

## THE LATE HONOURABLE SISTER MARY ALICE (PEGGY) BUTTS

**Hon. Aurélien Gill:** Honourable senators, I in turn would like to say a few words in the Senate following the death of Senator Peggy Butts. I have lost a dear friend. Senator Peggy Butts has passed away. This brings me to the unwritten rule of memory. It is more than a rule; it is a bond, a friendship, a sacred bond that unites us forever.

I never understood the reasons for our friendship, but if ever the word friendship had a meaning, you exemplified it, Peggy. There is no explaining friendship; it has to do with affinities. We toured the world together, my dear Peggy; having been at the National Defence College, we are now quite capable of continuing the tour.

In your wisdom, my friend, you told me that death does not separate us but, on the contrary, reunites us. We are all mortal. Of that we can be sure. Thus, we say adieu. To say adieu is to say goodbye, goodbye forever. I expect we will meet up again because friendship never dies. For now, we are bereft of your intelligence and sensitivity. Peggy, you have just gone on ahead of the rest of us.

We are not saying goodbye for so very long. Thank you Sister Peggy Butts for having been here. Thank you for crossing my path.

## THE LATE HARRISON MCCAIN, C.C.

**Hon. Jeremiah S. Grafstein:** Honourable senators, I rise to pay tribute to the late Harrison McCain, a strong, bold name for a strong, bold personality.

I was surprised and saddened to learn of his passing. I recall a chat that we had just a few months ago when I called for his political advice. Harrison, in that high, shrill, down-east voice, said: "Now Jerry, give me those arguments again." And I did. He said: "I will get back to you."

A day or so later, he called back and said: "You are wrong. You should not do that. Here are the reasons why. See you later." Boom, and he hung up. That was Harrison McCain: quick, to the point, very effective and no wasted words. He had a sharp political instinct and he had sharp political judgment. He was a great entrepreneur, a great Maritimer, a great Liberal, a great small "l" liberal and one of the greatest Canadians of his generation.

His late sister, Eleanor Johnson, was also a great friend. I recall that when I first went to a rather conservative educational institution with my young son, she saw me cringing at the back of the hall. I was not used to that environment where everyone in the room, except for me, was a Conservative. She called out in that same high-pitched McCain voice: "Jerry, you come right up here with me. Us Liberals have to stick together!" I will never forget that.

Honourable senators, it is with great and deep regret that we witness the passing of Harrison McCain. I will never forget his voice; I will never forget his flashing eyes; I will never forget his puckish humour nor his great social conscience. He will be greatly missed by all who shared the pleasure of his company. My condolences to all members of his family, which is also a great Canadian family. Their extraordinary contributions to our country are yet to be fully measured or fairly applauded.

**Hon. Senators:** Hear, hear!

## CANADIAN INTER-UNIVERSITY ATHLETIC UNION BASKETBALL CHAMPIONSHIPS

### CONGRATULATIONS TO CARLETON RAVENS

**Hon. B. Alasdair Graham:** Honourable senators, this statement may surprise some partisan colleagues, but I want to extend very special and sincere congratulations to the Carleton University Ravens who last weekend won the Canadian university men's basketball championship by defeating the St. FX X-Men with a score of 63-59 before a TSN national television audience and an enthusiastic crowd of 8,000 fans at the Halifax Metro Centre.

In sports jargon, it was a nail biter from start to finish, with last-second heroics from the Ravens who captured their fiftieth consecutive victory through regular season and play-off contests. It was also Carleton's second consecutive national championship, and in that respect we pay special tribute to Raven's head coach Dave Smart.

As usual, Coach Steve Konchalski of the X-Men directed his charges to a stellar never-say-die performance before a home crowd which, while disappointed, was treated to three days of high calibre basketball. The representatives of the participating universities — University of New Brunswick, Laval, Brock, York, McMaster, Brandon, Calgary and the University of British Columbia — all acquitted themselves in exemplary fashion.

Special mention should be made of the organizers of this annual event. Recognition should, as well, be given to TSN commentators Rod Black, Brian Heaney and Paul Hollingsworth for their colourful and balanced coverage.

Again, heartiest congratulations to the Carleton Ravens for capturing their second consecutive national basketball title.

## ROUTINE PROCEEDINGS

### BILL RESPECTING EQUALIZATION AND AUTHORIZING THE MINISTER OF FINANCE TO MAKE CERTAIN PAYMENTS RELATED TO HEALTH

#### REPORT OF COMMITTEE

**Hon. Lowell Murray,** Chairman of the Standing Senate Committee on National Finance, presented the following report:

Tuesday, March 23, 2004

The Standing Senate Committee on National Finance has the honour to present its

## FIFTH REPORT

Your Committee, to which was referred Bill C-18, respecting equalisation and authorizing the Minister of Finance to make certain payments related to health, has, in obedience to the Order of Reference of Monday, March 22, 2004, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LOWELL MURRAY  
*Chairman*

**The Hon. the Speaker:** When shall this bill be read the third time?

On motion of Senator Ringuette, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[Translation]

## THE ESTIMATES, 2004-05

### INTERIM REPORT OF NATIONAL FINANCE COMMITTEE ON MAIN ESTIMATES PRESENTED

**Hon. Lowell Murray,** Chairman of the Standing Senate Committee on National Finance, presented the following report:

Tuesday, March 23, 2004

The Standing Senate Committee on National Finance has the honour to present its

## SIXTH REPORT

Your Committee, to which were referred the 2004-05 Estimates, has, in obedience to the Order of Reference of February 26, 2004, examined the said estimates and herewith presents its first interim report.

Respectfully submitted,

LOWELL MURRAY  
*Chairman*

(For text of interim report, see today's Journals of the Senate, p. 346.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Murray, report placed on the Orders of the Day for consideration at the next sitting of the Senate.



[English]

## PARLIAMENT OF CANADA ACT

### BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Lorna Milne**, Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament, presented the following report:

Tuesday, March 23, 2004

The Standing Committee on Rules, Procedures and the Rights of Parliament has the honour to present its

### THIRD REPORT

Your Committee, to which was referred Bill C-4, to amend the *Parliament of Canada Act* (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence, has, in obedience to the Order of Reference of Thursday, February 26, 2004, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LORNA MILNE  
Chair

**The Hon the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Austin, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

• (1430)

## SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

**Hon. Marjory LeBreton:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Social Affairs, Science and Technology have power to sit at 3 p.m. on Thursday, April 1, 2004, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

## OFFICIAL LANGUAGES

### BILINGUAL STATUS OF CITY OF OTTAWA—PRESENTATION OF PETITION

**Hon. Lowell Murray:** Honourable senators, pursuant to rule 4(h), I have the honour to table petitions signed by another 24 people asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that Parliament consider the following:

That the Canadian Constitution provides that English and French are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the government of Canada;

That section 16 of the *Constitution Act, 1867* designates the city of Ottawa as the seat of the government of Canada;

That citizens have the right in the national capital to have access to the services provided by all institutions of the government of Canada in the official language of their choice, namely English or French;

That Ottawa, the capital of Canada, has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners ask Parliament to confirm in the Constitution of Canada that Ottawa, the capital of Canada, is officially bilingual, pursuant to section 16 of the *Constitution Act*, from 1867 to 1982.

## QUESTION PERIOD

### HUMAN RIGHTS

#### STATUS OF STUDY ON 2002 BERLIN RESOLUTION OF ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE PARLIAMENTARY ASSEMBLY

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, my question is to the Chair of the Standing Senate Committee on Human Rights, the Honourable Senator Maheu.

Honourable senators will recall that an order of reference was given by the chamber to the Standing Senate Committee on Human Rights to study the resolution of the parliamentary wing of the OSCE concerning anti-Semitism. Given the fact that acts of anti-Semitism have plagued us these past few days in Canada, might we obtain a verbal indication as to how the work is going and when we might expect a report from the committee?

**Hon. Shirley Maheu:** Honourable senators, we have all been touched by the desecration of synagogues in the past few days.

The committee was to meet two weeks ago, but Senator Grafstein was not available. However, we will be meeting at our next session, which is scheduled to be held April 19, after the Easter break. We have no other chance to meet before then, and we will start the discussion at that time.

## CITIZENSHIP AND IMMIGRATION

APPOINTMENT PROCESS TO IMMIGRATION  
AND REFUGEE BOARD—INFLUENCE OF MINISTER

**Hon. Donald H. Oliver:** Honourable senators, my question is for the Leader of the Government in the Senate. It deals with the IRB appointments process.

Last week, the Minister of Citizenship and Immigration announced that there will be changes in the way judges will be appointed to the Immigration and Refugee Board. Like so much else about the Liberal government lately, this announcement gives the impression of change while actually maintaining the status quo.

Despite the promise of an independent nominating committee and new testing requirements for candidates, the minister will still have the final say in all appointments to the board. How will the board be free of patronage if the nominating process is not completely separated from the influence of the minister?

**Hon. Jack Austin (Leader of the Government):** Senator Oliver asks an important question. Under our model of government, we are committed to ministerial responsibility. Ultimately, the government and the minister must be held accountable for the decisions that are taken. However, we are putting in place an objective nominating process and a set of transparent criteria to be followed. The advice with respect to nominations will be understood and open. Therefore, if the minister refuses to make a recommended appointment, he does so on his or her responsibility, which is the appropriate system for the Westminster model that we follow.

**Senator Oliver:** Honourable senators, given the new system of ministerial responsibility the honourable senator just explained, it may result in better quality judges, but it does not address the board's current patronage appointees. Will the selection criteria be applied retroactively?

**Senator Austin:** I do not believe a retroactive process is desirable. We are trying to go forward with a new system. I do not accept the implied allegation that because the current system does not have a consultative process we have in any way failed to appoint appropriate people to the IRB, nor was such an allegation made with respect to the Mulroney government.

However, we are at a point of time in the development of Canadian public policy when the Canadian public is asking for a more open and transparent process, and we are in the process of modernizing our system to implement that process.

IMMIGRATION AND REFUGEE BOARD—  
OFFICIAL'S ALLEGATIONS THAT DECISIONS  
WERE WRITTEN FOR BOARD

**Hon. Donald H. Oliver:** Last week, an official with the Immigration and Refugee Board revealed that he wrote decisions for judges in four different cases, including a decision involving a recent case of a North Korean refugee, Mr. Song Dae Ri. Selwyn Pieters, a Refugee Protection Officer with the board, said that one judicial officer offered him a cottage vacation in exchange for writing a ruling.

Honourable senators, that is the equivalent of a Crown prosecutor being asked to write a ruling for a judge in a criminal case. Needless to say, this is a clear violation of board rules that raises very serious questions about the legitimacy of its decisions.

Will the cases in which Mr. Pieters wrote rulings or decisions be reopened or reconsidered as a result of this revelation?

**Hon. Jack Austin (Leader of the Government):** Senator Oliver is right that the allegations made by the official, if true, would indicate an egregious situation. I know that steps are being taken to determine what in fact took place. After that determination has been made, naturally, the minister will decide on an appropriate course of action.

## HERITAGE

AUDITOR GENERAL'S REPORT—  
SPONSORSHIP PROGRAM—COMMENTS BY MINISTER

**Hon. David Tkachuk:** Honourable senators, the Minister of Canadian Heritage said that the sponsorship scandal was just another dossier that the opposition parties are using to attack the Prime Minister. Minister Scherrer also said the sponsorship scandal in which \$100 million was given to Liberal-friendly advertising firms was overblown, and she did not agree with the size of the fiasco. Does the Leader of the Government agree with the sentiment, and is this the opinion of the cabinet?

• (1440)

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I have not seen that statement, but it is very clear that the government is deeply concerned with the report of the Auditor General and has taken major steps to deal with it. Senators are quite familiar with the appointment of the inquiry commissioner, the appointment of a special prosecutor, the activities of the Public Accounts Committee and the investigation by the RCMP.

While I am on my feet, I would like to repeat my thanks to Senator Tkachuk for his Senator's Statement yesterday on anti-Semitism.

## PRIME MINISTER'S OFFICE

AUDITOR GENERAL'S REPORT  
SPONSORSHIP PROGRAM—  
COMMENTS BY FORMER PRIME MINISTER

**Hon. David Tkachuk:** Honourable senators, the Prime Minister has made a great effort to show that this government is new and different from the Chrétien administration; yet, two years ago, then Prime Minister Chrétien said that maybe a few million were stolen in the process of setting up this sponsorship program.

Did present Prime Minister Paul Martin condemn or inquire about Mr. Chrétien's remarks at that time, and did he take any action to determine if there was any truth to the remarks and any wrongdoing in the sponsorship program?



**Hon. Jack Austin (Leader of the Government):** Honourable senators, the processes now underway will deal with those issues if they are proven to be relevant.

## PUBLIC WORKS AND GOVERNMENT SERVICES

### AUDITOR GENERAL'S REPORT—SPONSORSHIP PROGRAM—COMMENTS BY FORMER MINISTER

**Hon. Marjory LeBreton:** Honourable senators, last week Alfonso Gagliano testified before the Public Accounts Committee and said that he met with Mr. Chuck Guité, the head of the sponsorship program, three or four times a year.

Today, *The Globe and Mail* reveals that, in fact, Mr. Gagliano met with Mr. Guité more frequently, according to a long-time public servant, Hughette Tremblay, who also presented testimony last week to the committee. Both witnesses were testifying before the same committee and both would have received the same warning from the chair that the refusal to answer questions or the failure to reply truthfully could give rise to a charge of contempt of Parliament or, indeed, a charge of perjury.

Can the Leader of the Government in the Senate tell us which version was the correct version, that of Mr. Gagliano or Ms. Tremblay?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, it must be obvious to all that I am not in a position to make any comment with respect to evidence given before the Public Accounts Committee by any witness.

### AUDITOR GENERAL'S REPORT— SPONSORSHIP PROGRAM—COMMENTS BY OFFICIAL

**Hon. Marjory LeBreton:** Thank you for that answer.

*The Globe and Mail* also notes that Ms. Tremblay asked questions about the 2000 audit conducted by Public Works and Government Services into the sponsorship program. Ms. Tremblay questioned the fact that more than \$3 million was awarded to agricultural fairs and hunting and fishing shows, with no evidence in the files to explain why the money was paid out. She was told: Don't ask.

Can the Leader of the Government in the Senate give us his opinion of who would have given instructions regarding questions that should not be raised about missing files?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I do understand that Senator LeBreton wants to put certain allegations on the record in the Senate, and I am very pleased that Question Period permits that.

## HERITAGE

### PROTOCOL FOR FLYING FLAGS AT HALF MAST

**Hon. Gerry St. Germain:** Honourable senators, my question is to the Leader of the Government in the Senate. It is the easiest question I could ask him, and it is about protocol with regard to flags on the Hill. I am not sure whether I should be asking the

government leader, but a flag has been flying at the top of the pole on the Peace Tower, while another has been flying at half-mast on the West Block and I believe on another building. Is there a protocol that applies to this scenario?

As I say, to be fair, I am not sure that I am asking the right person this question. Perhaps I should be asking His Honour, but given that the Leader of the Government represents the government in this place, I will start there.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I am sure there is a protocol, but I do not know what it is.

**Senator St. Germain:** Could the honourable leader possibly find out and come back to us with a response? I would like to understand the protocol, and I am sure every senator is interested. I see heads nodding. Could the leader get back to us about when and for whom the flags are flown at half-mast? Does the protocol apply to Privy Councillors?

**An Hon. Senator:** When you die, Gerry.

**Senator St. Germain:** When I die? I do not think so.

**Senator Austin:** I will make those inquiries and report back tomorrow. I am under the impression that the flags flying at half-mast, which do not include the flag on the Peace Tower, for protocol reasons, relate to the tragedy in Madrid.

## FOREIGN AFFAIRS

### KOSOVO—RESPONSE TO CIVIL UNREST— APPOINTMENT OF MR. BHUPINDER LIDDAR AS CONSUL GENERAL TO CHANDIGARH, INDIA

**Hon. A. Raynell Andreychuk:** Honourable senators, I have a two-part foreign policy question for the Leader of the Government in the Senate.

Over the last number of days, horrific events have been taking place in Kosovo. To remind honourable senators, Canada intervened in Kosovo without the approval of the United Nations. We did so on the basis that we were committed to stopping ethnic cleansing. Last week's events in Kosovo are not isolated, as there have been sporadic incidents for quite some time. They have produced a reverse ethnic cleansing that was occurring at the time we intervened.

What steps is Canada taking in light of the fact that we intervened in Kosovo, changed the balance in that country and said at first that we would not support the KLA? Of course, the organization is now pervasive in the Kosovo area.

What other steps is Canada taking to protect civilians in Kosovo beyond what NATO and the United Nations are doing? Are we intervening with humanitarian aid or support for civil structures?

The second part of my foreign policy question is this: I was under the impression that all heads of mission were appointed by the Prime Minister. With respect to Mr. Liddar, is it the case that the previous Prime Minister made the appointment and now the current Prime Minister has revoked it?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, with respect to the situation in Kosovo, Honourable Senator Andreychuk clearly understands that Canada is participating as part of a decision taken by NATO. The NATO agreement includes that geographic area within its mandate, and NATO is an organization that is authorized by the United Nations to act in a regional capacity.

With respect to what the Canadian mission is doing beyond its K4 responsibilities, I will make inquiries. If Senator Andreychuk has a suggestion about some special role that should be performed, I would be delighted to carry her representations to the Minister of Foreign Affairs.

With respect to the question of appointments of heads of mission, those appointments are the responsibility of the Governor in Council, and I have no further information with respect to her question.

**Senator Andreychuk:** Honourable senators, I have supplementary questions on both points. NATO did not intervene under its own authority, as the Leader of the Government has stated. Article 5 of the North Atlantic Treaty clearly states that invading one country is an invasion of all countries; defence of one country is a defence of all others. Article 5 was not particularly invoked. Our foreign minister at that time made the clear point that we were intervening, for humanitarian purposes, to stop ethnic cleansing.

Much has been said about interventions in Afghanistan and Iraq, and the moral and legal responsibility of the interveners. In regard to Canada having made the statement that ethnic cleansing would not be tolerated, what efforts have we made to ensure that last week's events do not repeat themselves? Surely, we have a responsibility beyond NATO because we took a decision as a member of NATO to put a new humanitarian twist on the interpretation of NATO's intervention.

• (1450)

Other NATO countries said they moved into Kosovo because it was affecting their security with the outflow of immigration, which was not our problem. Ours was humanitarian, and there is a humanitarian crisis looming and continuing in Kosovo.

What special and particular efforts can Canada make? I can certainly give my own opinion, but I would hope that my government would give some leadership and would have been thinking about this, having taken the serious step of moving into that country.

**Senator Austin:** Honourable senators, I thank Senator Andreychuk for her statement. The situation in Kosovo is not one in which it would appear that there was a deliberate effort by specific groups of a quasi-governmental kind to foment difficulty. It appeared to be a spontaneous reaction. Senator Andreychuk is aware of how combustible human feelings are in that historic area.

With respect to the government's leadership, I will be happy to report what the government is doing. I always take Senator

Andreychuk's interventions as having substantive value, so if there are specific steps that Canada should take unique to the mission in Kosovo I would be happy to carry her representations to the government.

**Senator Andreychuk:** Following up on the second question, did the Prime Minister personally involve himself in the cancellation of the appointment of Mr. Liddar?

**Senator Austin:** My information is that no cancellation has taken place but that the implementation has been deferred pending an inquiry, but into what I do not know.

**Senator Andreychuk:** Then are the newspapers incorrect when they say that the appointment has been cancelled and the position has been frozen?

**Senator Austin:** I have not seen a newspaper report that says the appointment has been cancelled. The report that I saw in the newspapers said that it has been suspended pending further investigation. However, if Senator Andreychuk is right, I will report to the chamber tomorrow.

**Hon. Marcel Prud'homme:** Honourable senators, on the same question, surely inquiries must have been made before Mr. Liddar was appointed. Second, we have to know that he sold, immediately after being appointed, a prosperous magazine that was bought by someone related to the *Ottawa Citizen*, a magazine entitled *Diplomat & International Canada*. He let his very popular television program go, for which he interviewed ambassadors from around the world, from Arab countries to Israel to all, and he treated everyone equally.

To the best of my knowledge, he has worked intimately with some of the most prominent members of the House of Commons, some of whom became senators — not me, but some became senators. One passed away, one is still here.

For the last 20 years, there has been a problem somewhere. Some of the establishment — security services, I would dare say publicly — in my view may be trying to right a wrong that was made years ago, by refusing the gentleman knowledge about what he is going through at the moment.

He has been duly appointed. The entire diplomatic community is wondering what we are up to here. Mr. Liddar was appointed, received congratulations from the Chief Clerk to Her Majesty, the Queen of Canada.

I will come back to this later this week, thereby giving the government leader, who I trust is a fair man, time to seek the answer to Senator Andreychuk's question. I will pursue with the Leader of the Government in the Senate, either privately or publicly, the absurdity in which Mr. Liddar finds himself at the moment — that is, an office in Foreign Affairs waiting for him but being told that somewhere is wrong. If something is wrong, why was Mr. Liddar appointed?

I will leave it at that, for today.



**Senator Austin:** Honourable senators, I thank Senator Prud'homme for his intervention.

I also want to refer to three newspaper headlines: *The Globe and Mail*, "Envoy's appointment on hold;" *Ottawa Citizen*, "Posting frozen;" *Ottawa Sun*, "Chrétien pal stripped of plum posting." In the latter case, the *Ottawa Sun*, in its last paragraph, saying:

Foreign Minister Bill Graham...saying only that there are "unresolved" administrative issues surrounding the appointment.

That does not suggest that anyone was stripped of anything.

I have no doubt that this is very difficult for Mr. Liddar and everyone else involved. Again, I have no information on why the appointment has been put on hold. He is, as Senator Prud'homme said, occupying an office and is on full pay.

#### DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, I have the honour of presenting two delayed answers to oral questions. The first delayed answer is in response to an oral question raised in the Senate on February 3, 2004, by the Honourable Senator LeBreton, on the report on former private business dealings with government tabled in the House of Commons.

The other delayed answer is in response to an oral question posed in the Senate on February 18, 2004, by Senator Rivest, regarding the appropriateness of the RCMP investigating VIA Rail's involvement in the sponsorship program after senior officers received free passage on VIA Rail in 1998.

#### PRIME MINISTER

##### REPORT ON FORMER PRIVATE BUSINESS DEALINGS WITH GOVERNMENT TABLED IN THE HOUSE OF COMMONS

*(Response to question raised by Hon. Marjory LeBreton on February 3, 2004)*

- The review of the original answer to question 37 was initiated by the former Government House Leader, the Member of Parliament from Glengarry—Prescott—Russell.
- There will be increased departmental oversight of responses to written questions. The Government House Leader has been given assurances by the Clerk of the Privy Council that new measures will be taken to ensure that errors of this kind do not occur again. Specifically, these steps are the following:
- Designated senior officials will now be required to submit proposed responses to Ministers.

- Senior officials will now be required to sign a written statement that they are accurate and complete as well as a description of the steps taken to provide a comprehensive response.
- Where information is available from more than one department or agency, and there is a danger of duplication or less than full inclusion of information, one department or agency will be designated by the Privy Council Office to ensure that the information provided is accurate and complete.

#### SOLICITOR GENERAL

##### ROYAL CANADIAN MOUNTED POLICE— POSSIBLE BREACH OF CODE OF ETHICS

*(Response to question raised by Hon. Jean-Claude Rivest on February 18, 2004)*

The RCMP has confirmed that complimentary VIA Rail transportation was offered to its senior officers to travel from Québec City to Montréal to attend the RCMP "C" Division's 125th Anniversary Ball held on June 13th, 1998. The Commanding Officers were in Québec City to attend their annual conference. The majority of Commanding Officers had alternate arrangements for transportation however three officers and their spouses accepted the offer and were provided with complimentary transportation from Québec to Montréal on VIA Rail to attend the Anniversary Ball.

After a review of the available information, the RCMP has determined that VIA Rail was a sponsor of the RCMP "C" Division's 125th Anniversary Ball and the offer of complimentary tickets was in compliance with existing RCMP policy on Sponsorship. The Anniversary Ball was a RCMP community relations event that supported a local charity.

The RCMP accepts the overall findings of the Auditor General's Report on the RCMP's management of its 125th Anniversary activities and has implemented measures and controls to ensure policies, procedures and regulations are clearly understood, monitored and enforced within the RCMP. At the request of the RCMP, the Surêté du Québec has agreed to assume responsibility for that portion of the criminal investigation that touches upon entities involved with the RCMP's 125th celebrations.

#### PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

**The Hon. the Speaker:** Honourable senators, before going to the Orders of the Day, I am pleased to have this opportunity to introduce visiting pages from the other place. First, I wish to introduce Anthony Carricato, who is studying International Studies and Modern Languages at the Faculty of Social Sciences of the University of Ottawa. Anthony is from Sault Ste. Marie, Ontario.

[Translation]

Marie-France Dupuis is studying English at the Faculty of Arts of the University of Ottawa.

Marie-France is from Cornwall, Ontario; welcome to the Senate.

[English]

## ORDERS OF THE DAY

### LIBRARY AND ARCHIVES OF CANADA BILL

#### BILL TO AMEND—THIRD READING— DEBATE ADJOURNED

**Hon. Yves Morin** moved third reading of Bill C-8, to establish the Library and Archives of Canada, to amend the Copyright Act and to amend certain Acts in consequence, as amended.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. David Tkachuk:** I move the adjournment of the debate.

On motion of Senator Tkachuk, debate adjourned.

• (1500)

### CRIMINAL CODE

#### BILL TO AMEND—SECOND READING— ORDER STANDS

On Order No. 2:

Second reading of Bill C-22, to amend the Criminal Code (cruelty to animals).

**Hon. Terry Stratton:** Honourable senators, may I ask why we continue to stand this item?

**Hon. Bill Rompkey (Deputy Leader of the Government):** We are standing this item because the honourable senator who wishes to address the bill is still working on a speech, doing some research, and requires more time.

**Senator Stratton:** When will that honourable senator be ready?

**Senator Rompkey:** I am given to believe that the senator will be ready to speak soon.

**The Hon. the Speaker:** Is it agreed that the matter stand, honourable senators?

**Hon. Senators:** Agreed.

Order stands.

### BILL RESPECTING THE EFFECTIVE DATE OF THE REPRESENTATION ORDER OF 2003

#### SECOND READING—SPEAKER'S RULING— ORDER WITHDRAWN

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Stratton, for the second reading of Bill S-7, respecting the effective date of the representation order of 2003,

And on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Stratton, that the original question be now put.—(*Speaker's Ruling*).

**The Hon. the Speaker:** Honourable senators, on Thursday, March 11, 2004, Senator Kinsella raised a point of order to have his Bill S-7 struck from the Order Paper, citing first the British parliamentary authority Erskine May and then subsequently a precedent that had occurred in the Senate some years ago.

Senator Kinsella explained that when a decision has been made with respect to one of two bills on the Order Paper dealing with the same subject matter, it is not possible to proceed with the second bill. In this case, Bill C-5, setting the effective date of the representation order of 2003, received Royal Assent on March 11, 2004. Bill S-7, dealing with the same subject as Bill C-5, still remains on the Order Paper, and Senator Kinsella has now proposed that I as Speaker discharge the bill.

[Translation]

For his part, Senator Robichaud suggested that it would be just as effective to vote on his motion of the previous question that he had moved to the second reading motion of Bill S-7. If the previous question were to be defeated, he said, it would lead to the discharge of the bill. Senator Rompkey then proposed to follow up on Senator Kinsella's point of order by agreeing to provide unanimous consent to withdraw Bill S-7 from the Order Paper, an offer that Senator Kinsella declined.

[English]

According to Senator Kinsella's understanding of the Senate precedent and the procedural literature, it is the responsibility of the Speaker to discharge the bill. In the view of Senator Kinsella, unanimous consent is not the appropriate means to meet this procedural step. Senator Robichaud again intervened to express a concern that, by discharging Bill S-7, the Senate might establish a precedent that could, in the future, block consideration of a government bill based on a prior decision taken with respect to a Senate bill on a similar subject.

[Translation]

It was at this stage that I agreed to review the authorities and the precedent and come back with a ruling. In the interval between March 11 and today, I have considered the references that were provided by Senator Kinsella. I have also reviewed the relevant *Rules of the Senate* and am now prepared to give my ruling.



[English]

Let me begin by addressing the concern that was raised by Senator Robichaud. The senator indicated that the request of Senator Kinsella to discharge Bill S-7 might create a precedent that could lead to the blockage of consideration of any future bill coming from the House of Commons. As Senator Robichaud explained it on March 11:

...if Senator Kinsella's bill had been defeated...the government would not have been able to introduce its bill because a ruling would already have been made on the issue.

I have considered the matter carefully, but can provide no simple answer.

It is useful to explain how the different parliamentary authorities and our own rules operate in circumstances where the house is confronted with bills that are substantially the same. The passage at page 499 of the 22nd edition of Erskine May that Senator Kinsella referred to in raising his point of order states:

There is no general rule or custom which restrains the *presentation* of two or more bills relating to the same subject, and containing similar provisions. But if a decision of the House has already been taken on one such bill, for example, if the bill has been given or refused a second reading, the other is not proceeded with if it contains substantially the same provisions...

This passage closely resembles citation 624(3) in the sixth edition of the Canadian authority, Beauchesne.

[Translation]

The Australian Senate authority, *Odgers*, provides a much narrower interpretation. As it explains at page 203 of the 9th edition, "the same question rule is seldom applied because it seldom occurs that a motion is exactly the same as a motion moved previously. Even if the terms of a motion are the same as one previously determined, the motion almost invariably has a different effect because of changed circumstances and therefore is not the same motion. There may be different grounds for moving the same motion again."

[English]

The principle of the same question rule also forms a part of the *Rules of the Senate of Canada*. Rule 80, for example, provides:

When a bill originating in the Senate has been passed or negatived a new bill for the same object shall not afterwards be originated in the Senate during the same session.

In addition, rule 63(1) states:

A motion shall not be made which is the same in substance as any question which, during the same session, has been resolved in the affirmative or negative, unless the order, resolution, or other decision on such question has been rescinded...

[The Hon. the Speaker]

[Translation]

The purpose of rule 80 is to prevent the consideration of a Senate bill that has substantially the same object as another Senate bill that had already been adopted or rejected during the same session. Rule 80 applies strictly to bills that originate in the Senate. It does not apply to bills that come from the "other place." Rule 80, therefore, does not apply to the present circumstances since Bill C-5 did not originate in the Senate.

[English]

Erskine May, unlike *Odgers*, does not seem to observe the distinction provided in Senate rule 80. In fact, it may be that neither Erskine May nor *Odgers* is an appropriate guide to our practices. It is worth noting that the *Companion to the Rules of the Senate of Canada*, published in 1994, on page 247 cites section 42(2) of the Interpretation Act, which specifically allows:

An Act may be amended or repealed by an Act passed in the same session of Parliament.

There is nothing to suggest that a proposed amendment or repeal of an act could not be similar in substance to the earlier act that was already adopted by Parliament in the same session.

How can we sort out these conflicting provisions and statements? I am not really sure that we can. It may not be possible to square the circle. The role of the Speaker is to ensure that best practices are followed while at the same time protecting the interests of the Senate. This is what the Speaker strives to do through rulings. If, at any time, the Senate disagrees with that judgment, with a decision, any senator can challenge the ruling and the Senate will decide what the outcome will be by either accepting or overturning that ruling. In any case, it might be prudent to follow the advice of Hatsell, who is also cited in the *Companion* at page 190, as follows:

...the good sense of the House must decide, upon every question, how far it comes within the meaning of the [same question] rule.

• (1510)

With respect to this point of order, the Senate has adopted a C-bill and it is now left with the task of discharging a similar S-bill from the Order Paper. Senator Robichaud's concern, however, has to do with the possibility of the Senate taking a decision to adopt an S-bill that might block consideration of a C-bill. A solution for the future might be to propose the withdrawal of the S-bill in order to allow unimpeded consideration of the C-bill. The Senate did something similar to this in October 2001 when it unanimously agreed to withdraw Senator Lynch-Staunton's bill on Royal Assent in order to permit the introduction of a similar bill sponsored by the Leader of the Government. Alternatively, it could be argued that rule 80 recognizes an implicit exception and that C-bills do not come under the same question prohibition if it thwarts the Senate's ability to fulfil its obligation as the chamber of sober second thought to review the legislation that comes to it from the other place.

In the end, the boundaries of the same question rule can be drawn only when the Senate is confronted with a concrete event. During discussions on the point of order on March 11, reference was made to a Senate precedent. On February 27, 1991, the Speaker ruled that a bill sponsored by Senator Haidasz, coincidentally also Bill S-7, entitled "An Act to amend the Criminal Code (protection of the unborn child)," should be removed from the Order Paper following a substantial decision on Bill C-43, entitled "An Act respecting abortion," since both bills sought to amend section 287 of the Criminal Code.

As the Speaker noted in the ruling:

Although Bill S-7 and Bill C-43 have different objectives and represent alternatives on the subject of abortion, the Chair feels...a strong case may be made that they are "the same in substance."

This impression was strengthened by the fact that Senator Haidasz had moved amendments to Bill C-43 that resembled the objectives and provisions of Bill S-7, all of which were rejected by the Senate.

The case that is now before the Senate is broadly similar to the precedents of 1991. In both instances, the Senate completed consideration of a government-sponsored bill received from the House of Commons before voting on the second reading motion of a Senate bill.

Bill S-7 was introduced or presented February 4 and debate on its second reading began on February 11. The Senate received a message from the House of Commons concerning Bill C-5 on February 11 and, following our usual practice, the bill was read the first time immediately. Second reading debate commenced on February 13 and ended February 20, when the bill was subsequently referred to the Standing Senate Committee on Legal and Constitutional Affairs. After it was reported without amendment, Bill C-5 was debated and passed at third reading on March 10. Royal assent was given on March 11. At the same time, I note that no further action was taken with respect to Bill S-7 until the point of order was raised.

In passing Bill C-5 at third reading, the Senate did pronounce itself on the effective date of the representation order of 2003. As such, it would be inappropriate to now proceed on Bill S-7 since, in my view, it does deal with the same object as Bill C-5. Based on this assessment, I agree with Senator Kinsella and it is my ruling that Bill S-7 be discharged from the Order Paper.

## SPAM CONTROL BILL

### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Oliver, seconded by the Honourable Senator Gustafson, for the second reading of Bill S-2, to prevent unsolicited messages on the Internet.—(*Honourable Senator Stratton*).

**The Hon. the Speaker:** Honourable senators, before I recognize Senator Oliver, I would inform honourable senators that if Senator Oliver speaks now, his speech will have the effect of closing debate on this bill.

No other senator rising, I recognize Senator Oliver.

**Hon. Donald H. Oliver:** Honourable senators, Ipsos-Reid has done a survey of unsolicited commercial e-mail messages. It has determined, among other things, that, as a percentage of respondents, the number of spam messages Internet users in Canada received each week from January 2004, 17 per cent received 101 plus, and 10 per cent received between 51 and 100.

Although most Canadians are annoyed with spam, according to a recent research study their level of annoyance is 4.5 out of 5, which is not quite as high as how annoying Canadians find telemarketing, which is rated 4.6 out of 5.

Honourable senators will recall that researchers estimate that 2.3 billion spam messages are now broadcast daily over the Internet and that this will rise to 15 billion by 2006 unless we do something about it.

Anti-spam legislation usually falls into one of three categories: opt out, opt in or do nothing at all. Canada is close to being in this last category. Today, no new laws have been passed to protect citizens and businesses from this growing problem. That is why the Bill S-3 is so important.

Each day, I receive several e-mails, telephone calls and faxes encouraging me to proceed quickly with this bill. Senior bureaucrats here in Ottawa have encouraged me to proceed with the bill. Legislation is, in fact, useful.

I would remind honourable senators that in October the United States Senate passed a bill by a vote of 97 to zero to outlaw spam and to set up a do-not-spam registry similar to the do-not-call list. Under the U.S. legislation, spammers could face millions of dollars in fines and jail time. The U.S. bill focuses on fraudulent and deceptive messages, that is, those with falsified return addresses and misleading subject lines.

As honourable senators will know, a number of cases under this new law have already been commenced against spammers.

In the United States, many states, such as California, have passed their own laws. It is my view that a federal statute that would apply to all Canadians and all provinces is much better than having 10 or 11 individual rules, all different.

Later this week, I am meeting with the Minister of Industry Canada to discuss my bill with her and ways in which we can work with the government in finding ways to protect Canadians from the scourge of spam.

Honourable senators, a number of individuals and companies have phoned me, indicating that they would like to appear before a Senate committee to give evidence on ways in which spam affects their productivity, their business and their profit margins. Honourable senators, the time is now right to have this matter go to committee so that a committee can commence its study on one of these most important subjects.



I will therefore move, honourable senators, seconded by the Honourable Senator Di Nino, that this bill be referred to the Standing Senate Committee on Transport and Communications for further study.

**Hon. Senators:** Question!

**The Hon. the Speaker:** I will put the question on the bill before going to the motion to move to committee.

It was moved by the Honourable Senator Oliver, seconded by the Honourable Senator Gustafson, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

#### REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Oliver, bill referred to the Standing Senate Committee on Transport and Communications.

• (1520)

### COPYRIGHT ACT

#### BILL TO AMEND—SECOND READING

**Hon. Joseph A. Day** moved second reading of Bill S-16, to amend the Copyright Act.

He said: Honourable senators, Bill S-16 deals with a very narrow issue and is the same as a bill that was before us in the last session of Parliament. At that time, the bill was given second reading and referred to committee, but was not dealt with by the Standing Senate Committee on Social Affairs, Science and Technology before Parliament was prorogued.

Bill S-16 amends the Copyright Act. It is the result of the efforts of many people, particularly the Canadian Photographers Coalition, which is one of the groups that has urged honourable senators to consider this issue.

In the past, there have been several reports and commissions by the government, including one in 1984 entitled "From Gutenberg to Teledon" and another as recently as 2002. Both of those reports, and others, have recommended that the legal fiction in the Copyright Act that applies to photographers be amended so that photographers are treated like all other artists, and that photography is treated like the artistic work that it is.

The historic anomaly comes from the British Copyright Act of 1911 that Canada copied many years ago. In Britain, the act has been changed to remove the anomaly. The rule has been changed in the United States and in Australia to allow photographers to be

treated in the same way as any other artist. Canada is one of the few countries in the world that still has the legal fiction of treating photographers differently from other artists.

[Translation]

This legislation seeks to eliminate the exception to the general rule on ownership of copyright that currently applies to photographers in Canada. Under that exception, the owner of the initial photograph is deemed to be its author, even though the owner of the photograph is not actually its author.

Since copyrights relate to authorship, under the current act, photographers are being denied the rights normally enjoyed by the authors of a work. The purpose of this bill is to give photographers the rights and privileges already granted to all other authors of works protected by the Copyright Act.

[English]

During the previous legislative session, this bill was introduced as Bill S-20 and was spoken to by a number of senators, including now retired Senator Setlakwe. In his remarks on June 19 of 2003, Senator Setlakwe noted that the time had come for photographers to be recognized as authors and to be entitled to copyright in the same way as other authors and artists.

Senator Setlakwe listed members of his family; George Nakash from Montreal, Joseph Karsh from Ottawa and his brother Malak Karsh, as examples of photographers who would benefit from the adoption of this legislation. These sentiments were echoed by other colleagues including Senator Corbin, and Senator Nolin asked questions.

I will not go into the technicalities in great detail. When I spoke to this matter on September 17, 2003, I spoke of Freeman Patterson, a well-known photographer in the province of New Brunswick. I recommend that those honourable senators who have an interest in this area review the *Debates of the Senate* of that day.

In a studiously prepared review of Bill S-20, Senator Beaudoin cited Supreme Court of Canada decisions to prove that this bill recognizes in a fair way the commercial value of a photograph while not putting photographers at an economic disadvantage. There are economic values with respect to copyright that it is important to recognize. Following these comments, Senator Banks pointed out that the adoption of this bill would allow the Government of Canada to remain consistent with the international conventions to which our country is a signatory in relation to copyright.

Honourable senators, this amendment to the Copyright Act is long overdue. It has been recommended by many government departments and by independent commissions but, because it deals with one small item in an area where there are so many amendments required, it is continually put aside. We could deal with this item expeditiously if we could agree to have it sent to committee for review.

[ Senator Oliver ]

As I have previously noted, there has been a desire for these changes for well over 20 years. However, no change has occurred to date. We have considered these changes for long enough. We know that the current law is outdated and that we are out of step with the rest of the world in regard to this narrow issue of ownership of copyright by photographers. It is long overdue that the law reflect the view of society and recognize photographers as the artist they are.

Honourable senators, I urge you to support this bill and to send it to committee for further consideration.

[Translation]

**Hon. Gérard-A. Beaudoin:** Honourable senators, I had the opportunity to express my views on this bill and I have not changed my mind. I want to state very clearly that I would like to see this legislation referred back to the committee. I have nothing to change or to add.

[English]

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Day, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

• (1530)

## HAZARDOUS PRODUCTS ACT

BILL TO AMEND—THIRD READING—  
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Morin, seconded by the Honourable Senator Munson, for the third reading of Bill C-260, to amend the Hazardous Products Act (fire-safe cigarettes).—(*Honourable Senator Kinsella*).

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I am pleased to rise to speak at third reading of this bill and to indicate that I support the principle of this bill. It is an important principle and an important issue.

While I would have preferred to have made my points when we were debating the bill at second reading, honourable senators will

recall that, notwithstanding the fact that the bill had been sitting on the Order Paper for eight sitting days. Then all of a sudden one day, it was moved at second reading and spoken to, and then spoken to by another honourable senator. Then, not having my notes before me at that time, and wanting to have at least one member of the opposition rise and express views on the bill at second reading, I moved the adjournment of the debate. However, my request was denied by the house. I regretted that, because it did go against the tradition of at least allowing the opposition the opportunity to hear what a proponent of a bill has to say, then giving the opposition at least a day to study those remarks and participate in the debate. This was not even a government bill. This was a private member's bill coming from the other place. Honourable senators, I support the principle of the bill, but I must place on the record my dissatisfaction with the manner in which the bill was handled.

The bill went off to committee and has been reported back to committee without amendment, but let us examine, honourable senators, what happened in committee. In committee, there was a witness from the tobacco industry who was heard and had an opportunity to make his — or, rather, their — points, and then the proponent in the Senate was heard from. Several members of the committee examining the bill indicated that we should hear from officials of the Department of Health because there had been concerns expressed by officials from that ministry when the bill was being examined in the other place.

Without any notification having been given ahead of time that there would be clause-by-clause consideration, immediately after the witness was heard a motion was made to go right into clause-by-clause consideration because, "We do not need to hear from the Department of Health, nor do we need to hear from those who might give evidence as to a technical problem in the wording of the bill." Therefore, I am of the view that, while on the one hand I support the bill, on the other hand I think it is in the public interest that we in this place do the work we are sent here to do, namely, give careful review to legislation.

I wrote a letter to the Minister of Health and I would like to place on the record what I said to Mr. Pettigrew. My letter is dated March 17, and reads as follows:

Dear Minister:

Bill C-260, *An Act to amend the Hazardous Products Act (fire-safe cigarettes)*, is currently before the Senate of Canada at 3rd Reading. This bill was reintroduced on February 2 and immediately sent to the Senate pursuant to Standing Order 86.1, at which point the normal legislative process resumed, with the bill receiving first and second reading after which it was referred to the Standing Senate Committee on Energy, the Environment and Natural Resources. The Committee did not hear from the Department of Health.

Last session, when this bill was before the House of Commons Standing Committee on Health, your officials expressed some reservations about the toxicity of fire-safe cigarettes as well as behaviour patterns of smokers that



could conceivably increase the risk of fires. On October 7, 2003, Mr. Denis Choinière, Director, Office of Regulations and Compliance, Tobacco Control Program, Healthy Environments and Consumer Safety Branch, Department of Health, stated:

After reviewing the results of the toxicological studies conducted by both Philip Morris and Brown & Williamson in the U.S., we concluded that although there were changes in the smoke chemistry, namely a significant increase in carbon monoxide levels, they did not translate into any overall meaningful changes in toxicity. However, caution must be exercised, as these tests performed were quite limited. Health Canada feels that this is still an important concern, and is considering requiring that manufacturers perform adequate toxicity testing before and after modifications are made to the cigarettes.

Another issue we paid attention to was consumer behaviour. A concern expressed by the tobacco industry here was that consumers, believing their cigarettes to be fire safe, would thus become more careless. To examine this, we've undertaken two major steps. First, we're conducting a survey right now to establish a baseline of consumer behaviour. Second, we're looking in detail at a database on fires that have occurred in Ontario, which is maintained by the Ontario fire marshal.

It would be appreciated if you could advise as to whether or not your department is now fully satisfied that the toxicity level of fire-safe cigarettes will cause no harmful health effects beyond those that already exist. As well, has the department completed the survey to establish the baseline of consumer behaviour and has the analysis of the database on fires in Ontario been completed and if so can I be provided with a copy of the reports.

Mr. Minister, this legislation is clearly intended to help prevent injury and harm. It is imperative that the Senate be given your assurance that the Department of Health is fully satisfied that this bill will, at the very least, do no harm and that it will overall work in concert with the department's efforts to protect the health of Canadians.

With every good wish,

Yours sincerely...

Honourable senators, that, clearly, was the line of questioning that we ought to have put to the officials in the Department of Health, or to the minister if he had been able to attend.

I am awaiting the reply from the minister and wish to move the adjournment of the debate.

**The Hon. the Speaker:** It was moved by the Honourable Senator Kinsella, seconded by the Honourable Senator Stratton, that further debate be adjourned to the next sitting of the Senate for the balance of his speaking time.

Is it your pleasure, honourable senators, to adopt the motion?

[ Senator Kinsella ]

**Some Hon. Senators:** Agreed.

**Hon. Yves Morin:** Honourable senators, I would like to ask —

**The Hon. the Speaker:** I am sorry; I did not see Senator Morin. I know it means going back, but Senator Morin wanted to ask a question. Would you take a question? We need unanimous consent to return to Senator Kinsella.

**Senator Kinsella:** I do not want to compromise the time I have to complete my address because I need to have the data back from the minister. Therefore, I think I will decline. However, I would be happy to do so if there is time when I complete my speech.

On motion Senator Kinsella, debate adjourned.

## FISHERIES AND OCEANS

### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—REPORT OF COMMITTEE ON STUDY OF MATTERS RELATING TO STRADDLING STOCKS AND FISH HABITAT ADOPTED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on Fisheries and Oceans (budget—study on straddling stocks and fish habitat) presented in the Senate on March 11, 2004.—(*Honourable Senator Cook*).

**Hon. Joan Cook** moved the adoption of the report.

Motion agreed to and report adopted.

## HUMAN RIGHTS

### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—REPORT OF COMMITTEE ON STUDY OF LEGAL ISSUES AFFECTING ON-RESERVE MATRIMONIAL REAL PROPERTY ON BREAKDOWN OF MARRIAGE OR COMMON LAW RELATIONSHIP ADOPTED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on Human Rights (budget—study on the division of on-reserve matrimonial real property), presented in the Senate on March 22, 2004.—(*Honourable Senator Maheu*).

**Hon. Shirley Maheu** moved the adoption of the report.

Motion agreed to and report adopted.

• (1540)

## PRIME MINISTER'S TASK FORCE REPORT ON SENIOR CITIZENS

### INQUIRY

On the Order:

Resuming debate on the inquiry of the Honourable Senator Ferretti Barth calling the attention of the Senate to the report of the Prime Minister's Caucus Task Force on Seniors.—(*Honourable Senator Rompkey, P.C.*).

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, I have had discussions with Senator Ferretti Barth and I think this debate has been concluded. I thank her for her intervention, and for bringing to our attention the good work done by the group of which she was a part. We particularly give her credit for that. I suggest, Your Honour, that debate has been concluded on this item.

**The Hon. the Speaker:** I see no honourable senator rising. Accordingly, this inquiry will be considered debated.

## STATE OF CANCER

### INQUIRY

**Hon. Sharon Carstairs** rose pursuant to notice of February 25, 2004:

That she will call the attention of the Senate to the state of cancer in Canada — its care, treatment and expectations for the future.

She said: Honourable senators, many of us in this chamber have had direct experience with cancer. I am no exception. My husband has prostate cancer. I know others in this chamber have had similar experiences, either themselves or with their spouses. Fortunately, most of those cases are in remission. I also know of senators in this chamber and senators' spouses and senators' family members who have had breast cancer.

My seatmate, to whom tributes will be paid tomorrow, has had a difficult few years. He lost one daughter-in-law, Norah, to cancer, and now he has another daughter-in-law, Sheila, going through the difficulties of cancer. It was his experience that led me to meet with cancer specialists across the country and to make this representation to you today.

Senator Graham, I will not be able to join in the tributes tomorrow because there are just too many, so this is my own special tribute to you.

One in three Canadians will develop cancer during their lifetime. Cancer is the disease that most Canadians fear. Long waiting lists for treatment and sending patients out of the country for care just add to the fear of those who receive this diagnosis.

Honourable senators, we must provide all Canadians with effective prevention programs, regular screening, early detection, access to high-quality treatment and care, guidance, support and rehabilitation close to home, and the ability to live without fear that our health care system will turn away from those who need it the most.

I tell you this, honourable senators, because if current trends continue, the incidence of cancer in Canada will increase by as much as 70 per cent over the next 15 years. In 2003, there were 139,000 new cases. One Canadian dies every eight minutes. Without a new strategy that is national in scope, the future looks bleak.

I want to talk this afternoon about cancer control. Cancer control aims, first and foremost, to prevent cancer and, second, to cure cancer. Third, it aims to increase survival rates and the quality of life for those who develop cancer.

The facts about cancer are the following: Incidence rates have risen only slightly over the past few decades but the number of Canadians diagnosed each year is steadily rising. Cancer is primarily a disease of older Canadians. Seventy per cent of new cases and 82 per cent of deaths occur in those 60 years of age and older. These factors mean that by the year 2015, the number of new cases could be 70 per cent greater than at the present time.

By the year 2010, cancer will have become the leading cause of death in Canada. In terms of the economic cost, in 1998, cancer cost Canadians about \$14.5 billion — \$2.8 billion in direct costs and \$11.7 billion in indirect costs. That is an increase of 11.1 per cent in five years.

Honourable senators, that is why I would argue that we need a national strategy. We have limited resources. Canadians can afford to spend only so much on health care and on cancer care without jeopardizing other priorities. If we are to deal with cancer effectively, it cannot be achieved by one single organization. If we are to achieve equity for all Canadians who get this disease, all Canadians must have reasonable access to care, and it must not depend upon where you live.

Honourable senators, we need clear leadership because without clear direction we will not achieve our goals. Above all, honourable senators, we need a vision because all the good work that will be done will fail to meet the significant challenges that lie ahead if we do not have vision.

What should be the priorities for action? First, we should have national standards and guidelines. Now they are by region or by province. It is critical, if we are to truly understand the impact of this disease, that they be national in scope. We need much better coordinated prevention programs. At the present time there is provincial and federal overlap, and also local program overlap. None of these consistently work together. Overlap creates a lack of focus and results in poorly spent dollars and tremendous gaps in the prevention process.

We must, in my view, rebalance our focus. We must ensure that treatment is given as close to the home as possible. We need much more in the way of human resource planning because there are simply not enough physicians, nurses, pharmacists and x-ray technicians in the field of cancer or in other fields at the present time.

Honourable senators, we need clear research priorities. There is emerging technology. We must keep abreast of new knowledge if we are to keep our leading-edge status.

Honourable senators, we need a nation-wide strategy. I am not speaking of one dominated by the federal government because, in my view, that will not work. I am calling for the federal government to bring to the table the players — provincial,



territorial and regional — so that the dialogue can begin. I am asking the federal government to listen to what these players have to say so that federal funds and programs can be coordinated with those of the provincial and territorial authorities in order to get the very best value from the dollars spent.

• (1550)

Honourable senators, I am suggesting that the time is now. Wasted time will mean that we will not be ready for 2010, when cancer will be the number one cause of death in this country. By working together, we may be able to push back this rising tide.

Honourable senators, I think that if we bring this message strongly to all levels of government in this country, we can meet the unfortunate rise in the number of cancer incidents, and we will be there to make sure it is treated effectively.

**The Hon. the Speaker *pro tempore*:** If no other senator wishes to speak, this inquiry is considered debated.

The Senate adjourned until Wednesday, March 24, 2004, at 1:30 p.m.

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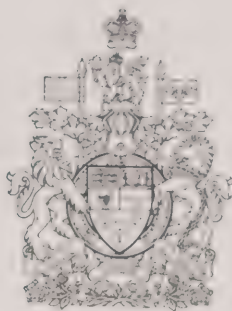






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OFFICIAL REPORT  
(HANSARD)

**Wednesday, March 24, 2004**

—

THE HONOURABLE DAN HAYS  
SPEAKER





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(Daily index of proceedings appears at back of this issue).

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## THE SENATE

Wednesday, March 24, 2004

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

### SENATORS' STATEMENTS

#### TRIBUTES

##### THE HONOURABLE B. ALASDAIR GRAHAM

**The Hon. the Speaker:** Honourable senators, I have received a letter from the Honourable Senator Austin, Leader of the Government in the Senate, pursuant to rule 22(10), requesting that additional time be provided for Senators' Statements today for purposes of paying tribute to our soon to be retired colleague, the Honourable Senator Graham.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, our esteemed and beloved colleague Senator Alasdair Graham will, by law, be compulsorily severed from his seat in the Senate on May 21, 2004, on reaching the relatively young age of 75. It is proper and just that we acknowledge his contribution and achievements in public life.

Senator Graham was appointed to the Senate by the Right Honourable Pierre Trudeau on April 27, 1972, and thus will have served here for more than 32 years. It seems a short time to have put in place such a distinguished record.

As honourable senators will know, Senator Graham served as Leader of the Government in the Senate from 1997 to 1999 and as deputy leader from 1995 to 1997. These were busy years in the agenda of Parliament, and bridged the time when a Progressive Conservative majority became a Liberal majority in this place, not entirely of Senator Graham's doing, of course.

The career of Senator Graham covered many roles. In his early years, he was a teacher, journalist and broadcaster in his native Cape Breton, Nova Scotia. He played a significant role as an executive of the Cape Breton Development Corporation, otherwise known as Devco. It was a time in Canadian policy when government believed it could play a directing role in kick-starting new economic growth. Senator Graham worked hard to find new work for the people of Cape Breton, taking to heart the words from his mentor, Father Jimmy Tomkins of Reserve Mines in Cape Breton that, "the little people together is a giant."

From 1975 to 1980, Senator Graham served as president of the Liberal Party of Canada. Out of this time came his deep commitment to the democratic process and his determination to spread the ideas and practices of democracy to the emerging societies of the world system. He took that message around the world in his leadership work with Liberal International and the National Democratic Institute. His book, *The Seeds of Freedom: Personal Reflections on the Dawning of Democracy*, promotes the power of the individual to effect positive change.

I first encountered Senator Graham when, in 1964, we were serving as executive assistants to ministers in the Pearson government, he to the Honourable Allan MacEachen and I to the Honourable Arthur Laing. Both those ministers eventually became senators. We knew Senator Graham then as "Big Al," and so he has remained; always working for Cape Breton, for the Liberal Party and for a tolerant and balanced world society based on the intrinsic value of the individual.

By any standard, Senator Graham has made an outsized contribution.

**Hon. Senators:** Hear, hear!

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, it is very tempting on this occasion to touch on the many aspects of Senator Graham's most varied public life. However, I will limit myself to his days as Leader of the Government, which I wish to recall, particularly his ability to move controversial government legislation to a successful conclusion despite an opposition whose numbers were such that the government had to have all its supporters close by to forestall any laying of a procedural landmine by this side.

Senator Graham succeeded as well as he did because Al is, first and foremost, a traditional parliamentarian who recognizes that the proper functioning of the parliamentary system depends on both government and opposition respecting each other's roles and responsibilities. When one resorts to bullying, or the other to obstruction, the system can break down, sometimes resulting in mistrust which seriously hinders the working relationship that is so essential at the leadership level.

More than once when a Langevin Block-imposed deadline was approaching rapidly for a bill that was moving slowly, I could inevitably expect a gentle knock on the door, and Senator Graham would come into the office looking ever so distressed, walk in hunched over, sit down, cover his face and with agony in his voice say in a barely audible whisper, "John, I'm in a fix. What can I do to get out of it?"

Whatever impasse existed would inevitably be resolved because Al Graham went out of his way to accommodate a responsible opposition, no doubt on a number of occasions to the annoyance of an impatient Langevin and caucus. He would explain his dilemma in confidence, show understanding for the opposition's position, and together we were always able to come to a satisfactory solution. Ours was an excellent working relationship which has developed into a close friendship. While one ended too abruptly, the other continues unchanged.

Thank you, Al, and all best wishes for many active years of a well deserved — although even more regretted — retirement from this place. We will not be the same without you.

**Hon. Senators:** Hear, hear!



• (1340)

**Hon. Bill Rompkey (Deputy Leader of the Government):** Al Graham, how do I remember thee? Let me count the ways.

I remember being underground in the Phalen Mine on Cape Breton Island, our faces blackened with coal dust. I was not sure whether I was with Al Graham or Al Jolson. It is a good thing it was dark down there. We tried to get Al to wear a kilt. It was the only time in his life that he refused. Al was at home in that mine, at home in Cape Breton, at home alongside the men of the deep. This was his place. The only thing that would have made the place more perfect would have been to move the campus of St. FX next to the Phalen Mine. The best we could manage was to bring Phalen to the Senate.

I know that Al loves St. FX. It formed him, formed his liberalism, formed his powerful prose, formed his loyalty to and compassion for the little guy, always grounded in that healthy self-deprecating sense of humour. His greatest pride at St. FX was, of course, playing for the X-Men. He was, as he said, the fourth man on the third line. One year, he got two assists. It was the same year the goalie got four.

I remember Al as president of the party. He was there at one of the most fascinating and significant times in Canadian history and one of the powers behind Pierre Trudeau. Indeed, after the interregnum when the former Prime Minister returned from a brief retirement to once again lead the Liberal Party, Trudeau once said, "You can blame Al Graham for my being here." I remember those heady days before Christmas in 1979 when the caucus met to decide who should lead the party. The Atlantic caucus was unequivocal in its support of Trudeau's return, due in no small measure to the unrelenting persuasion of Al Graham.

Tirelessly, he criss-crossed Canada. If the back-breaking schedule had him in Yarmouth and Prince Albert in the same day, so be it. On every stage, he exhibited the same passion and eloquence that lifted people as few others could. Even though he was tired, he never missed those lighter moments. One year, his son David was driving a bus for Brewsters in Banff. Al, always the natty dresser, had a breastplate hanky in his suit coat, which the puckish younger Graham replaced before the evening rally with some ladies' lingerie. As the rhetoric mounted and the beads appeared on his brow, Al reached into his pocket, where he thought the hanky was. Without missing a beat, he proceeded to mop his forehead with the frilly undergarment.

Perhaps what I remember best are those quiet chats, sometimes over a cup of tea — always with the milk in first — sometimes over something stronger. It was then that I realized what a full life this man has had, what special service he has given, on what foreign strands he has walked, and what wonderful and unique memories he has stored, always rooted in his beloved Cape Breton.

Al, from one Islander to another, let me offer you an Island toast: Long may your big jib draw.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, our colleague Senator Alasdair Graham has been a giant in these precincts where he has made a remarkable contribution, not only to Parliament but also to the larger common weal. No doubt his fortitude and wisdom was strongly informed by his boyhood experiences as he grew up in his hometown of Dominion, Cape Breton. To have had the opportunity to work with Senator Graham on a daily basis during his years as the deputy leader and then the Leader of the Government in the Senate was indeed a great privilege.

He was an artist at the use of what they call "usual channels" in the House of Lords, as we were often challenged to unravel the Gordian knots often tied by our colleagues from both sides of this chamber. As a teacher, journalist, democratic election observer and a senator, our colleague never forgot the values he learned at his alma mater, St. Francis Xavier University in Antigonish, Nova Scotia.

Honourable senators, in many ways the very motto of St. FX, *Quaecumque Sunt Vera* — whatsoever things are true — describes our friend. This motto comes from St. Paul, who speaks of a man being true in life, filling one's mind with everything that is true, everything that is noble, everything that is good and honourable. Indeed, this is Al Graham.

**Hon. Jane Cordy:** Honourable senators, I wish to pay tribute to my colleague and friend Senator Al Graham. When I taught school at St. Joseph's School in Sydney many years ago, there was a Graham student at almost every grade level. I see that some of his children and his grandchildren are here today as we honour their father.

In fact, Al, I see a lot of familiar Liberal faces from Nova Scotia here today, which shows you the high esteem in which you are held.

Al was very active in our church in Sydney. He and my mother served on the parish council together. He was also a lector in the church, and I remember that at Easter services every year he, Donnie MacIsaac and Connie Morrison would do the readings. They were all broadcasters, or a former broadcaster in Al's case.

In fact, I have a story about Al's radio career. As honourable senators know, Al grew up in Dominion, and he chummed around with the Scattalon brothers, all of whom were very athletic, like Al himself. One of the brothers went to St. Francis Xavier University and played every sport on campus. During his last year at St. FX, the university brought back the football program. Even though he had no football experience, Gino Scattalon tried out for the team and made it based on his sheer athleticism. At that time, Al was broadcasting the football games for CJFX Radio in Antigonish, which could be heard as far away as Glace Bay, Scattalon's hometown. It was the last game of the year and Scattalon was standing on the sidelines with no hope of ever getting into the game. He was getting embarrassed because he knew that his family and friends would be listening to the game back home.

Al decided that he would take matters into his own hands and save some face for his friend from home. Al started calling the game, inserting Scattalon's name every time a big play was made for St. FX. He could not have him score because it would be in the newspaper the next day, but he could make sure his friend looked good. "Scattalon runs for another 25 yards," Al would scream.

The game ended and Al went home feeling very proud of himself for what he had done — that is, until the bishop called him at home. The bishop just happened to be watching the game from his car, listening to Al's play-by-play. The bishop chastised Al, reminding him of the motto of St. FX: Whatsoever things are true.

Senator Al, I will miss all your political stories, but I will especially miss the wisdom and the guidance that you have given to Nova Scotia and Atlantic caucuses. I do hope that you can find some time to have another game of golf with Bob and me at one of the wonderful courses in Cape Breton. My best wishes to you.

**Hon. Lowell Murray:** Honourable senators, I believe I have known Senator Graham longer — going on a half century — and better than anyone here. I do not take that as a licence to poach on his privacy — or to endanger my own — since he will have the last word today. It is fair to say that we enjoy each other's company so much that we feel no need of any other audience for our recollected anecdotes, even when, as is his practice, he is recounting and embellishing them for the third or fourth time.

Today, his contribution to Parliament, to the Liberal Party, to the supervision of free elections abroad are being recalled, as they should be. With regard to the latter, I may say parenthetically that it is no surprise that he was so effective in identifying and preventing potential irregularities at the polls in some of those foreign countries. Anyone who grew up near Glace Bay would have heard of political tricks unheard of elsewhere — unlike New Waterford, where decorum was always more prevalent.

• (1350)

My earliest impression of Al Graham — and it is a lasting one — is that he was the exemplar of a good citizen. In the town of Antigonish, where he lived when I first knew him during the 1950s, he was the young man who could be counted on more than any other person of his generation to help in any worthy undertaking in the community. The list would be endless of good causes with which he unselfishly shared his time and to which he devoted his prodigious energy. His qualities of leadership, his talent for teamwork and his spirit of optimism that many later came to know from his work nationally and internationally were well known locally, long before politics and government became a major part of his life. In those days, he made time for others, even as the father of a large and growing family and while holding down two or three jobs to feed them.

That family, expanded now to include grandchildren, is well liked and much admired — and not just because they are strivers

and achievers but because their Graham and MacDonald genes have given them such a capacity for friendship and for service to others.

That gifted family has known more than its share of sadness and misfortune, and they have overcome. They have had good fortune too, among which is to have in Al Graham a father and grandfather who was there for them all.

Al Graham as patriarch — who would have thought!

**The Hon. the Speaker:** I regret to inform honourable senators that the extended time for Senators' Statements has expired, which is my signal to call on Senator Graham. I will, however, under Senators' Statements, continue with names.

**Hon. B. Alasdair Graham:** Your Honour, could the time be extended? I have wonderful things to say.

**The Hon. the Speaker:** I will continue with the list under Senators' Statements with Senators Fairbairn, LeBreton, Jaffer, Mercer, Prud'homme, Phalen, Maheu, Poulin, Day and Buchanan, as time allows.

**Senator Austin:** Honourable senators, I wonder if we could move to Senators' Statements and reserve the time for Senator Graham to respond to his tribute to the end of the Senators' Statements period. Would that be acceptable?

**The Hon. the Speaker:** Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** It is agreed.

**Hon. Joyce Fairbairn:** Honourable senators, for several months I have been in a state of denial that a colleague so dear to my heart would be leaving the Senate, as his term was up. Alasdair Graham is ageless in spirit, mind and heart. It is inconceivable to me that he should be retiring so soon. We have known each other for many decades, beginning with his days as a valued assistant with our mutual friend and political living legend, the "Laird of Cape Breton," the Honourable Allan J. MacEachen.

Beginning in the early 1960s, Al lived through heady times as Mr. MacEachen shone in the positions of labour, and national health and welfare. It would be true to say that Alasdair Graham learned much.

As has been said, our colleague began as a teacher, schooled in Glace Bay and St. Francis Xavier University. He had a heady career as a writer and broadcaster, and later as an executive with the Cape Breton Development Corporation.

Through all of this, it was inevitable that he should learn that the core to meaningful life in politics began with the respect of people who were your friends and who were your neighbours. Al Graham never forgot that in all the years since.



I doubt there was anyone on Parliament Hill who applauded more passionately than Senator Graham when yesterday's budget finally addressed one of his greatest causes — cleaning up the Sydney tar ponds, for which he has fought hard for so many years.

Prime Minister Trudeau made a great choice when he appointed Al Graham to the Senate on April 27, 1972. Three years later, he became the president of the Liberal Party of Canada, and has been involved ever since, through hair-raising election campaigns on the ground, and in the air travelling to every corner of Canada — not just making friends for the party, but also spreading the word about the value of this chamber and those who serve in it.

Al has also made significant contributions for all of us, and our country, in his extended work internationally, spreading principles of democracy in other countries.

Honourable senators, I admired Al Graham tremendously through all those years, but words cannot express my gratitude for his help and his energy as deputy leader when I was Leader of the Government after 1993. Those were days when management of this chamber took on an entire new meaning for our new government, which was in the position of an extremely small minority. In those days, we could not win votes, so we had to negotiate our way along an often-difficult path. Thanks to the spirit, generosity and terrific good humour of Al Graham, more often than not we were able to find common ground with our friends on the other side of the house.

I will miss you, Al, and your laughter and your strength. I wish you nothing but good fortune and happiness with your great family, whom you adore. You will be forever remembered here with respect and affection. I know whatever course you take will not be far away from your country or your Liberal family.

**Hon. Senators:** Hear, hear!

**Hon. Marjory LeBreton:** Honourable senators, I do not have prepared notes, but I should like to stand and pay tribute to Senator Al Graham, who is a great Canadian and a wonderful human being. Honourable senators will understand, for obvious reasons, that I can not speak with any great detail about his Liberal credentials, as I am not knowledgeable on that front.

However, I do have a personal connection with Senator Graham. When I first was named to the Senate, we started to refer to each other as "cuz." He would say, "Hi, cuz," as would I, to the horror of the partisans on our respective sides. One day, someone asked in the Reading Room, "You're cousins?" We said, "No, not exactly."

My cousin, George Barrett, who is in the gallery today, went to St. Francis Xavier University, where he met a young woman by the name of Eileen Graham, whom he married. The Barretts have three wonderful children, who I think I see up there as well. As a

result of that marriage, Senator Graham and I made ourselves honorary cousins.

Honourable senators, I remember the day Senator Graham was appointed to the Senate, because I was working for the Honourable Robert Lorne Stanfield. Mr. Stanfield, being the great Nova Scotia gentlemen that he was, paid great tribute to Al Graham. I was so taken aback by these glowing words that I ran to get Al Graham's biography, just to confirm that he was a Liberal, not a Conservative.

I have followed Senator Graham's life through family and through politics for a long, long time. One of the more memorable times to me happened in August 1979. We were the government; Joe Clark was the Prime Minister. The Right Honourable John G. Diefenbaker had the good sense to pass away while we were in government so that we could give him a proper state funeral. We had arranged the entire funeral. Those honourable senators who were around at the time of Diefenbaker will remember that there was a bit of feuding over him in the party, from time to time. Senator Murray could attest to this.

It was decided that the state funeral should be held at Christ Church Cathedral, following which Diefenbaker's body would be moved to Saskatoon for burial. Al Graham was designated the representative of the Liberal Party of Canada on the train. It was a most interesting experience. Because of the feuding on the various sides of the Diefenbaker faction, Al Graham was the only person on that train that everyone could speak to with some civility. We have had many good laughs about that since.

I should like to say two things. In 1996, when my daughter and grandson were killed, Al Graham was one of the first patrons of the LeBreton-Holmes Memorial Scholarship at the University of Ottawa, a position that he had to give up when named a member of cabinet as the Leader of the Government in the Senate.

• (1400)

The other thing I wanted to say to him, in addition to extending my own personal best wishes — and you really do not have to leave here until May 21 — if he could speak to his colleagues and say, "Don't call an election," because we could use him around here for another couple of months.

This morning, I was speaking with my former dear leader, the Right Honourable Brian Mulroney. I after subjecting myself to 15 minutes of St. FX stories and events that happened there, he asked me to personally express his sincere admiration for Senator Al Graham and wish him all the best, to which I add my own good wishes for the future.

**Hon. Mobina S. B. Jaffer:** Honourable senators, before I had the privilege to be in this chamber, Senator Graham, Senator Hays and I went to Holland for a Liberal International meeting. I can say for both Senator Hays and I that we were very impressed by his absolute commitment to the cause of liberalism and democracy.

Later, with Senator Graham and his son Jack, Senator Mercer, Senator Smith and Senator Hays we went to Oxford University, where Senator Graham gave a barn-burning speech to a large group of Liberal Democrats from all over the world. I got teased a lot by my colleagues who said that perhaps he could come and speak in British Columbia and we might win more seats there.

Senator Graham, since I came to this house, I have observed the quiet counsel you give to all of us and the care with which you speak. You, senator, have given a lot to our country and we thank you for this. I want you to know that when you leave this place, you leave a lot of friends, as well as a legacy of quiet advice you have given to many of us. We will miss you, but we will know that you are always available to us. Thank you for all that you have done for our country. You have been a great example to us.

**Hon. Terry M. Mercer:** Honourable senators, I do believe that upon retirement my friend and colleague, the Honourable Senator Alasdair Graham, will be the third longest-serving senator in Canadian history, behind Senators Lawson and Sparrow.

From the beautiful little town of Dominion on Cape Breton Island, Al Graham emerged as one of the country's most respected politicians. I would not even attempt to inform this place of his many accomplishments, as others have done so already. It would take me over a week, and we all have a party to go to tonight so we would not finish. I do wish to tell one story, though.

Do not worry, Senator Al, it is not in the same vein as Senator Rompkey's; it is a little cleaner.

During a by-election in Central Nova, I was part of the campaign team running against Brian Mulroney in 1983. We held an event to rally the troops in a little place called Plymouth, Pictou County, and our guest speaker cancelled at the last minute. I thought for a moment about whom I could get to replace him. I made a phone call at 4 p.m. to the cottage in Antigonish and Al agreed to be there. Not only did he show up on time, but one would have thought that his speech had been designed specifically for the event. He brought the room to its feet, encouraged everyone to work hard, and gave them the hope — false hope, unfortunately — that they could win the election.

I tell this story because it points to one clear fact: Senator Al does what any senator should do. He has always been friendly and supportive; he has always been available whenever needed; and, most important, he has always strived to make his home of Nova Scotia and Canada the best place in the world in which to live and work.

Al has served his party with dignity and loyalty. As president of the Nova Scotia Liberal Party from 1973 to 1975 and the Liberal Party of Canada from 1975 to 1980, the party was modernized and invigorated under his leadership.

When the party was shut out in Nova Scotia in the 1997 federal election, Senator Al became the Leader of the Government in the Senate, as well as the regional minister for Nova Scotia. He helped to rebuild Liberal fortune, culminating in the return of four Liberal MPs to the other place in 2000. This again shows the strength of his effectiveness and his hard work.

Senator Al, my wife Ellen and I, and all your fellow Nova Scotians and fellow Liberals, extend our heartfelt congratulations to you on your retirement this coming May. I hope that all honourable senators will look to your record of achievement and commitment as a model of how we should strive for the betterment of all Canadians.

**Hon. Marcel Prud'homme:** Honourable senators, believe it or not, I will be brief. I want to share with you something unique that happened in my youth — my youth as a parliamentarian.

One day, a very brilliant person in the Prime Minister's Office was pushing our caucus to make the rainmaker, better known as Senator Davey, president of the Liberal Party of Canada. I thought it was wrong to give too much power to the same person. I went to see Al Graham and said, "Sir, we do not know each other very well but I want you to run." However, he said, "Marcel, I am not very knowledgeable of the French language." I told him, "Don't worry, just say bonjour, merci and smile." I said the same to Iona Campagnolo. Finally, our friend Mr. Davey did not run and Al became our president.

I want him to know that I have always been very lucky because I supported and worked actively for every President of the Liberal Party. I am very glad to be an independent senator, because if I were still a Liberal, I would not have worked for Mr. LeDrew. I want this to be very clear.

Having said that, now that Senator Graham has more time, I want him to know that I will become very involved in Liberal International, and I ask him to be my godfather as I work in the circle of these very influential people.

Senator Graham, I salute your wife, whom I know, and all your children, and wish you a lot of success in International Liberal activities.

**Hon. Gerard A. Phalen:** Honourable senators, I would like to pay tribute to a fellow Nova Scotian, the Honourable Alasdair Graham. His story is linked inextricably to Cape Breton. To be from Cape Breton is to have known hard times, but also to have known a tremendous sense of family and community values, passed down through generations of Cape Bretoners. Born to Dr. John and Genevieve Graham in Dominion, Nova Scotia, a very tight-knit community on Cape Breton Island, Al Graham would travel down that road, but as many of us from Cape Breton have found as well, he would not be unprepared for such a journey.



The first stop on those travels was St. Francis Xavier University, with post-graduate studies in English and education. At St. FX, Senator Graham would be introduced to Moses Coady and the Antigonish Movement, whose teachings empowered individuals through cooperation and education, providing hope to those who had none. These teachings would prove to be a seminal moment in his life and would serve him well through the course of his life and career.

In 1958, politics beckoned and with this call came a run at a seat in Antigonish, where Senator Graham holds the unique distinction of losing two seats in the 1958 election, which may take a bit of explanation. Senator Graham ran in Antigonish and Allan MacEachen ran in Inverness. At that time, Allan MacEachen had 25 votes attending St. FX University, and one could vote in either riding. Allan MacEachen graciously agreed to give the 25 votes to Al Graham. Al Graham lost by 981 and Allan MacEachen lost by 18. This is a feat that to my knowledge remains unequalled in Canadian politics.

Political life beckoned once again as a special assistant to the Minister of Labour and, subsequently, the Minister of Health, the Honourable Allan J. MacEachen. This would be the start of a relationship that would continue for 40 years.

The second employee on the ground with the Cape Breton Development Corporation, as the executive vice-president, Al Graham would work long hours in attempting to right the economic ship in Cape Breton.

Summoned to the Senate in 1972 by the Right Honourable Pierre Elliott Trudeau, Senator Graham would become president of the Liberal Party of Canada during the Trudeau years. This chamber provided Senator Graham with the opportunity to pursue his passion — the spreading of values of democracy and equality throughout the world, with such organizations as Liberal International and the National Democratic Institute. I should like to quote from the man himself to explain this dedication that has touched so many lives. I quote from his book, *The Seeds of Freedom: Personal Reflections on the Dawning of Democracy*:

Over the past decade, I have watched little people struggle for democracy, an ideal which promised a better life for themselves and their families. Like my own people in Cape Breton they were beset by powerful forces which could only be controlled if they became masters in their own house.

• (1410)

To conclude, honourable senators, I would like to offer my heartfelt congratulations to Senator Graham for his dedication to bettering the lives of the people of Cape Breton, Canada and beyond. Al, you have done us proud.

**The Hon. the Speaker:** Honourable senators, I regret that time for both tributes and Senators' Statements has expired.

[ Senator Phalen ]

**Senator Graham:** Honourable senators and dear colleagues, I want to begin by thanking all of those who were so generous in their thoughts, expressions and reminiscences, which brought home to me so many wonderful memories. I noticed that Senator Buchanan was about to get to his feet when the Speaker brought down the gavel. I know that John would be very kind, but it is probably just as well that I got on before he did because we would be ordering supper for everybody here and in the gallery.

I have very mixed emotions today. This is far too early to be leaving my friends in this wonderful institution. Although I will not read all the names, the class of 2004 comprises a mighty powerful and very distinguished list of honourable senators who have retired, or who will retire, from this chamber during the year. I want to acknowledge the presence of my rather extended family who came here, I am sure, at great inconvenience and at their own expense. I particularly want to acknowledge one family member: MacKenzie Graham, Jack's son. Today is his ninth birthday.

**Hon. Senators:** Hear, hear!

**Senator Graham:** I want to thank the people who have made this wonderful Senate — this great institution — my second home and family. They include all honourable senators, the staff at the Clerks' Table and in the Black Rod's office, the translators, the interpreters, the stenographers and *Hansard* reporters, the staff of journals, debates and printing, the legislative clerks, and those who try to translate my fractured French. I thank the people in communications, human resources and committees branch; the great security staff, who are so courteous; the bus drivers, with whom I have so much fun; the cafeteria staff; the messengers and the cleaners. No matter with whom one communicates in this place, this wonderful family are all exemplary servants, workers and wonderful Canadians.

Yes, Jane, I do remember the day I "put" Gino in the line-up but could not let him score because it would have shown up in Monday's *Chronicle-Herald* that he had not scored in that football game. By the way, that was neither the first nor the last time I did that.

As I listened to your generous tributes, I reflected on the many years I have been privileged to serve in this beautiful chamber. I thought of the eight wonderful oil paintings commissioned by Lord Beaverbrook as part of the Canadian War Memorials Fund that, so magnificently restored, watch over our work every day. Perhaps we often forget their presence because they seem so at home in this place.

[Translation]

Yet, these paintings are a constant reminder of a lost generation, the high price of freedom and democracy, and the importance of paying tribute to those who have kept the faith and protected this wonderful country of ours.

[English]

As these walls whisper with the sacrifice and invincible determination of those brave Canadians far from home so long ago, we think about the centuries-long sowing of the Canadian identity: How a gutsy and resilient people — our ancestors — defied all the odds, imagining a land of opportunity built on the principles of reform and social justice and the commitment to a better world. We think about a democracy where the accommodation of differences was the rule, not the exception; an accommodation so subtle it is as natural as the air we breathe, and so we remember.

We remember our national soul. We recall that the very foundations of our country were grounded in the values of moderation and compassion, of tolerance and inclusion. These values were all part of the seeds from which this nation grew at its origins. As generation after generation journeyed here from around the world and all corners of the globe — many of them poor, dispossessed, hungry, and too many fleeing oppression — they did so because the spirit of this wonderful young country cast a light that projected far beyond the gateway to freedom.

• (1420)

Yes, we do remember and, honourable senators, we must take great pride in our work in this chamber as we do so. Our work is about the defence of the values that the young people, and some a little older, that you see in the Beaverbrook paintings sacrificed and died for — and, later, all of those who fell at Normandy and Dieppe, and in Korea. These are the values that generation after generation of Canadians sang about and wrote about and passed on to their children.

Today, in this generation, these are the values that Canada brings to cyberspace and to international business, to international affairs, to the protection of the environment, to the corridors of the United Nations, to trouble spots like Bosnia, Afghanistan, and Haiti. Our work, honourable senators, is about the defence of the values that have made our flag loved and respected across the planet.

A great Canadian, and a great friend of mine, by the name of Senator John Connolly, once leader of the government in the Senate, who sat where Senator Austin is sitting today, very accurately described this place as the custodian of our basic rights, our basic freedoms. As someone who has had the privilege of serving my province of Nova Scotia and my country for over 30 years in this chamber, I have had a very enviable opportunity to serve in this remarkable assembly of very talented people from all walks of life. All of those — all of you — who have been called to serve in what is truly the workshop of government. You have been my working colleagues; all of you have become my trusted friends.

The special custodianship that Senator Connolly spoke of is often not well understood by Canadians, and yet, in this place where our most valuable work is often done in committee — our hearings on bills and examination of issues of great importance to

the lives of all Canadians, let us never forget that — senators work long hours to ensure that our laws are crafted to safeguard the peace, the security, the basic rights and freedoms of our talented people, no matter where they live, no matter what their circumstances. We are here in this chamber to protect regional, provincial and minority interests. We are here to focus greater public attention on those people in society whose rights and interests are often overlooked — the young, the poor, the elderly, the dying, our veterans and our wonderful Aboriginal friends.

[Translation]

Every study carried out in this place has helped to improve some specific aspect of our society.

[English]

Of the many studies which have had their birth in our chamber and in our committees, and which have had a profound, beneficial influence on the lives of countless Canadians, I want to refer to just one particular study. I have in my hand a clipping from the *Toronto Star* of 1969. This hangs on the wall of my office. The headline is, "How Tish Graham in grade 11 made war on poverty" and under the picture of Patricia and Senator Croll it says, "Tish Graham's poverty report made Senator David Croll weep." Let me read a couple of paragraphs:

Forty-one students from a Sydney, N.S. high school got together one day during a history class and decided that a study of the French Revolution was about as relevant to their time and province as the sale of buggy whips is to a General Motors executive.

When teacher William MacKenzie asked the middle-class kids —

Remember, you are all middle class.

— in Grade 11A of Sydney Academy just what was important, they pointed out the futility of studying about the problems of another time —

I do not believe that, but oh, well.

— while all around them they could see people bent by misery and squalor.

MacKenzie, a flexible man, told the students that if they were so concerned about social conditions in Cape Breton, why didn't they conduct a study of these problems as a class project. The students not only agreed — class leader, Tish Graham, 15, suggested that the results be taken to the federal government as an indictment of its failure to wipe out local poverty. Tish pointed out that Senator David Croll, a lifetime fighter for social reform, would be in Halifax in two weeks to hold hearings by a Senate committee on poverty, which would give them an ideal opportunity to present their findings.



The 41 students then went on a blitz of research. They talked with poor families, with miners, with steel workers. By the second day they politely asked teacher Bill MacKenzie to step aside as the class spent busy nights and whole weekends speedily preparing the report before Croll's arrival in early November.

Many of the interviews were done with the poor themselves....

Finally, the students dipped into class funds for \$270 to charter a bus to take them to Halifax....

They presented 31 specific recommendations to the committee.

When Tish Graham stood up to read the report to Senator Croll, the man wept openly — for pride, he said, at the dedication of this group of young Canadians.

Tish had read in part:

'The war on poverty should be a hot and furious war ... It is the responsibility of the middle class to see the lot of the poor people improved.

We need a just society, but it must be just for all.'

Enough said on that particular subject.

Honourable senators, in a survey I read a few years ago, most kids interviewed in Canada thought that Thomas Jefferson was a great Canadian hero. It does not take a great stretch of the imagination to see that the same tragic lack of information and understanding about the history of our institutions and the evolution of our bicameral system lies at the heart of the often misplaced commentary with respect to the value of the Senate in this country. None of our parliamentary institutions is perfect. Any reform of the Senate must be viewed in the total context of parliamentary reform, because change in one chamber most assuredly affects the other. Change must respect our parliamentary institutions.

• (1430)

Honourable senators, we stand at a watershed in our history. Senate reform is a subject of great intense and passionate national debate, but so too is the subject of reform of Parliament per se. Canadians want and expect a new partnership with a reformed Parliament, a new partnership that will nurture a political culture in which people have the heart for what is right, the spirit for what is just and minds dedicated to the public good.

Honourable senators, let the debate begin in a spirit of open-mindedness and tolerance, with our energy steeped in respect for the views of all parties and all parliamentarians, mindful always that our first duty is to serve the people and that it is our great privilege to work for the deepening of our democracy and the enriching of what is one of the finest civil societies on the face of the earth. In the course of that debate, let us engage fully in a process of education and reflection so that, years from now, Canadians, parliamentarians and historians in the future will be able to say, no matter what happens, that we did the right thing at the right time and that we did it together.

[ Senator Graham ]

Let the words of the Magna Carta, written in the thirteenth century, serve as our anchor:

To none will we sell, to no one deny or delay right or justice.

These are words that countries over many centuries have espoused. Those words remain as true today as they did when they were written so long ago. We will not trade on or sell justice to the highest bidder. We will not deny or delay right or justice. That is the pledge to the people of our country. That is our pledge to our children and to our children's children and to all the generations yet to come.

There is a well-known inscription on a plaque in the legislative chamber in Charlottetown. The words are from Milton's *Paradise Lost*. It reads: Providence being their guide, they builded better than they knew.

Honourable senators, we have not built this great country by accident or by luck or by circumstance. Our ancestors, deliberately and strategically, entered into a social compact reflective of our collective will to create something new here in this vast and breathtakingly beautiful northern expanse of territory. As I contemplate my far too early retirement from this chamber in May of this year, I reflect upon the fact that, when you really think about it, we did build much better than we probably knew or understood in times past. So, too, will we build higher and stronger in the future — probably much better than we will understand in times to come, guided by providence and the Canadian instinct for justice and for what is right. If that is to be the legacy of Parliament to future generations of this wonderful, magnificent land of ours, Canada, our beloved Canada, will always remain glorious in perpetuity and eternally free.

**Hon. Senators:** Hear, hear!

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I should like to draw to your attention the presence in our gallery of Mr. Jelko Kacin, Chairman of the Committee on Foreign Policy of the National Assembly of Slovenia. He is accompanied by the Slovenian ambassador to Canada. Welcome to the Senate of Canada.

[Translation]

I also wish to draw to your attention the presence of the winners of the 2003-04 Senator Jean-Robert Gauthier Essay Contest. There were a total of 95 entries.

The four winners are Rebecca Laurin, Juliana Martel and Christian Paquette, all of the University of Ottawa, and Sébastien Gougeon, of the Université du Québec à Montréal.

Welcome to the Senate.

[English]

• (1440)

[English]

## ROUTINE PROCEEDINGS

## BUDGET 2004

## DOCUMENTS TABLED

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, pursuant to rule 28(3), I have the honour to table, in both official languages, certain documents relating to the Budget 2004, which was presented yesterday in the House of Commons. They are: notice of a ways and means motion to amend the Air Travellers Security Charge Act, notice of a ways and means motion to amend the Income Tax Act, the Excise Tax Act, and the Income Tax Conventions Interpretation Act; as well as the budget speech, the Budget in Brief and the Budget Plan 2004.

[Translation]

## CUSTOMS TARIFF

## BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons returning Bill C-21, to amend the Customs Tariff.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Rompkey, bill placed on the Orders of the Day for second reading two days hence.

## NATIONAL SECURITY AND DEFENCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE  
TO MEET DURING SITTING OF THE SENATE

**Hon. Joseph A. Day:** Honourable senators, I give notice that, at the next sitting of the Senate, I shall move:

That the Standing Senate Committee on National Security and Defence have power to sit at 5 p.m. on Monday next, March 29, 2004, even though the Senate may then be sitting, and that Rule 95(4) be suspended in relation thereto.

## ABORIGINAL PEOPLES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE  
TO STUDY 2004-05 BUDGETED EXPENDITURES FOR  
COMMUNAL PROGRAMS AND SERVICES DELIVERED  
BY DEPARTMENT OF INDIAN AFFAIRS AND  
NORTHERN DEVELOPMENT

**Hon. Nick G. Sibbeston:** Honourable senators, I give notice that, at the next sitting of the Senate, I shall move:

That the Standing Senate Committee on Aboriginal Peoples be authorized to examine and report upon planned federal expenditures, as set out in the 2004-05 Main Estimates and the March 2004 federal budget, in relation to programs and services delivered to First Nation communities by the Department of Indian Affairs and Northern Development; and

That the Committee table its final report no later than June 30, 2004.

HISTORICAL ROLE OF WOMEN IN THE SENATE  
AND CHALLENGES FACING WOMEN LEGISLATORS  
TO ADVANCE PEACE AND HUMAN SECURITY

## NOTICE OF INQUIRY

**Hon. Douglas Roche:** Honourable senators, I give notice that, on Tuesday, March 30, 2004, I will call the attention of the Senate to the historical role of women in the Canadian Senate and the challenges faced by modern women legislators to advance peace and human security, and I invite all the women senators here to come and hear this speech.

## OFFICIAL LANGUAGES

BILINGUAL STATUS OF OTTAWA—  
PRESENTATION OF PETITION

**Hon. Mira Spivak:** Honourable senators, pursuant to rule 4(h), I have the honour to table petitions asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that Parliament consider the following:

That the Canadian Constitution provides that English and French are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the government of Canada;

That section 16 of the *Constitution Act, 1867* designates the city of Ottawa as the seat of the government of Canada;



That citizens have the right in the national capital to have access to the services provided by all the institutions of the government of Canada in the official language of their choice, namely English or French;

That Ottawa, the capital of Canada, has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners ask Parliament to confirm in the Constitution of Canada that Ottawa, the capital of Canada, is officially bilingual, pursuant to section 16 of the *Constitution Act*, from 1867 to 1982.

## QUESTION PERIOD

### PRIME MINISTER'S OFFICE

#### NATIONAL UNITY RESERVE FUND

**Hon. Marjory LeBreton:** Honourable senators, until the Minister of Finance voiced the words "national unity reserve" in yesterday's budget speech, few outside of the Liberal Party knew that the Prime Minister controlled a secret \$40-million slush fund to pay for special projects presented by Liberal MPs.

This fund apparently has been around since 1996. It appears nowhere in the accounts of Canada.

Can the Leader of the Government in the Senate tell us whether the Prime Minister, when he was the Minister of Finance, knew that this secret national unity reserve fund was available to fund projects of Liberal MPs? If so, why did he not expose it then rather than now? Is this yet another example of Paul Martin turning a blind eye to the excesses of the former government, putting his own career ahead of principle?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, the Prime Minister was not aware of a fund called the national unity reserve until the time he became Prime Minister, and that fund has in no way been used by Prime Minister Martin.

**Senator Comeau:** What a great Finance Minister!

**Senator LeBreton:** That is not exactly what I asked. What the government leader is saying is that the Prime Minister knew about it — if he did not know about it before, he knew about it on December 12.

Honourable senators, following yesterday's budget, no one from the government could say when the fund was created, who created it, what its prime objectives were, how much money was spent, and where and for what the money was spent.

For example, since it was called the national unity reserve, was this money used as a tool to combat nationalist sentiments in the province of Quebec?

**Senator Austin:** Honourable senators, I do not have very much information with respect to this fund, but it was reported to me that one of its purposes was to fund Katimavik, the project sponsored by our former colleague, Senator Jacques Hébert.

**Senator LeBreton:** All we know about the reserve fund, honourable senators, is what one senior government official is quoted as saying — "It was a honey pot."

Could the Leader of the Government in the Senate now advise the Senate — if not, can he find this information for us — when the fund was created, who created it, and where the money was spent? He talked about one of its prime objectives. We are well aware of Katimavik and how Senator Hébert starved himself on a bench out in front of the Senate — which did not do the Senate's image any good, I might add.

The government leader will obviously also have to find a lot of other information. When we checked, there was nothing under the rubric "national unity reserve," in either the published or unpublished volumes of the Public Accounts of Canada or in the estimates of Canadian Heritage. Therefore, in addition, could the Leader of the Government in the Senate advise the Senate as to where exactly in the public accounts the monies were paid out for this fund, and where in the Estimates was it voted this money?

**Senator Austin:** Honourable senators, I shall certainly make inquiries and a best effort to provide the information requested by Senator LeBreton.

However, I want to express a very aggressive disagreement with the honourable senator in her reference to Senator Hébert. I thought he made a very substantial public policy and public interest contribution by his insistence on a program that I think has very considerable value.

**Some Hon. Senators:** Hear, hear!

**Senator LeBreton:** Honourable senators, there are many ways to register objections. One does not need to use a national institution like the Senate to make a statement — that is, lying on a bench starving oneself.

The Prime Minister has promised to release documents pertaining to the sponsorship fund, but media reports today suggest that this openness will not extend to the national unity reserve fund. Why is the Prime Minister not willing to provide all relevant documents about this \$40-million-a-year fund, and will the Leader of the Government in the Senate undertake to table in the Senate a complete list of all projects funded through this secret fund in order to convince us all that the government does not have anything to hide?

**Senator Austin:** Honourable senators, I do not have much to add to my previous answer, which is that I shall make inquiries and a best effort in an endeavour to answer Senator LeBreton's questions.

**Hon. Gerry St. Germain:** May I have a supplementary question, please?

Honourable senators, my question is to the Leader of the Government in the Senate. Did I hear him say that the former Minister of Finance, former vice chair of the Treasury Board, former senior political minister in the province of Quebec did not know that there was a \$40 million-a-year slush fund, for the discretion of only Liberals? What a shameful, shameful situation that is in itself.

Is the government leader asking us to believe that? Does he think we are stupid over here? I am sure he does, but good Lord, we are not that bad, my man! To think that he would —

**The Hon. the Speaker:** Order, please. Your question, Senator St. Germain.

**Senator St. Germain:** Honourable senators, did I hear the Leader of the Government in the Senate say that the Prime Minister said that he did not know this fund existed? Is that really the level of the Prime Minister's incompetence?

**Senator Austin:** Honourable senators, I always enjoy the sound-and-light show from Senator St. Germain. It rivals the one on Parliament Hill in the evenings.

What I am saying is that this fund was not within the awareness of the Prime Minister when he was Minister of Finance, and certainly not when he was not in the ministry.

• (1450)

Honourable senators, the question suggests that there is some misadventure, misstep or something wrong, to put it in simple terms, with the existence of a fund that might be directed by a prime minister. I reject that allegation on the face of it. If the fund has been misused in some way, and we have no evidence of that, then there might be a basis to some allegation. However, I will add to Senator LeBreton's question a more historic search to see whether such funds might have been available to prime ministers in previous administrations.

## FINANCE

### THE BUDGET—SETTING OF EMPLOYMENT INSURANCE PREMIUMS

**Hon. Donald H. Oliver:** Honourable senators, my question is for the Leader of the Government in the Senate. Since 2002, the cabinet rather than the independent EI commissioner has set EI premiums. The official reason is that the government wanted to study the way that EI rates are set, but the truth is that to keep overcharging workers they had to override the law.

The most recent budget tells us that based on consultations held last year, the government may or may not bring in legislation in time for there to be a new rate-setting mechanism for next year. If they do not bring in this legislation, then cabinet will be given the power yet again to set premiums for the coming year.

The rate set in last year's budget for this year was \$1.98 per \$100 of employee earnings, which was supposed to

cover the cost of the program this year. If this is a break-even rate, could the Leader of the Government in the Senate explain why the EI actuary concluded in an independent report this past December that over the course of the 2004 calendar year the EI surplus would climb by another \$1.5 billion to hit \$47 billion by the end of this year?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I will make inquiries and hopefully provide the honourable senator with a fulsome answer at a very early time.

**Senator Oliver:** The budget also assumes a \$1.98 premium for next year and calls it a break-even rate. There is \$47 billion in the EI account but rates are not going down any further. Can the Leader of the Government in the Senate confirm that this projected break-even rate is not based on any independent analysis but is the handy work of some people in the Department of Finance who have consistently underestimated the government's tax haul in the name of prudence?

**Senator Austin:** I will add that question to my inquiry, honourable senators.

### THE BUDGET— FORECAST FOR EQUALIZATION PAYMENTS

**Hon. Gerald J. Comeau:** Honourable senators, I have been listening to the spin on the budget since yesterday. I point out that the spin is not applicable to the recipient provinces of the equalization program.

A year ago, the government planned to send the provinces and territories \$13.4 billion for equalization and territorial financing. The fall economic and fiscal update cut this amount back to \$11 billion because of the new census numbers and the downturn in the Ontario economy. This was \$2 billion clawed back from the benefits already paid. We are now being told that the figure is being reduced to \$8.7 billion this year, almost \$5 billion less than what was promised a year ago. The provinces will have to pay back a further \$2.5 billion because of this.

Could the Leader of the Government in the Senate explain how it is possible for the Department of Finance to make a \$4.7 billion mistake in its forecast for this year's equalization payments, a third of what was originally budgeted? Has the government considered what the impact will be on healthcare and education? The waiting lines for medical services in our hospitals are already way too long?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, the question of equalization payments is a current one at the federal-provincial first ministers' level.

Honourable senators know that there is legislation before this chamber at this time to extend the existing agreement by an additional year. This is to permit the continuation of ongoing discussions about the nature of the formula and what results are produced by the formula in terms of transfers to various provinces.



Honourable senators are also very familiar with the way in which the equalization formula works. It is based essentially at the moment on the performance of the Ontario economy. That is the largest factor in the current formula. As the Ontario economy has declined, the formula works to reduce, regrettably, the transfer payments for which various provinces, including my own, British Columbia, are eligible.

In specific terms, I want to respond to that part of Senator Comeau's question that relates to "passed over" payments that are now the subject of negotiations with provinces where the federal government seeks to recover over several years, not in one year, excess payments that were made by virtue of an error in the calculation of the formula.

The subject of equalization is part of the infrastructure of Canada. How it will work in detail depends on many factors, with various provinces now submitting different forms of calculating different levels of wealth. I believe that this is a subject on which we will hear a great deal for some time to come.

#### THE BUDGET— CLAWBACK OF OFFSHORE RESOURCE REVENUES

**Hon. Gerald J. Comeau:** On a supplementary note, the budget explanation does give an indication as to where we might be going. Obviously, it is not the end of the new formula. It is not currently all outlined, but it appears as if we are heading into a new equalization formula that is almost comparable to the old one, judging from what I have read. The budget does not fix or does not intend to fix the clawback of offshore resource revenues; rather, it promises to look at the national revenue base for the next set of amendments that will take place in 2009, some five years down the road. This seems to be another Red Book promise to take us over the election period so that we can go back to things as they were.

Why does the government continue to drag its heels on substantive changes to the clawback of offshore resource revenues that would benefit Nova Scotia and Newfoundland immensely, and Atlantic Canada overall, and provide the means by which they could become revenue-producing provinces rather than revenue-receiving provinces?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, the Minister of Finance has tabled equalization renewal measures with the 2004 Budget that include an additional \$175 million in cash enrichments beyond the package that was discussed by provincial finance ministers with the federal finance minister on February 20, 2004.

The question relates to one of the most difficult parts of the negotiations between the federal government and the provinces. As Senator Comeau well knows, the equalization formula is designed to transfer funds from the federal government that have been the basis of contribution by provinces that are not eligible for equalization. They are above the equalization level. The formula was to take into account the earnings of all provinces, and part of those earnings deal with offshore revenues.

In addition, I understand very well that some of the provinces have made submissions saying that the revenues in the formula

that go to the federal government should be retained by the provinces as well, without amending the equalization formula. It would be money on top of their equalization eligibility. This would add to the burden of those provinces that are above the table. This is what the negotiations are all about. This is what the negotiations are all about.

• (1500)

I appreciate the fact that Senator Comeau has put these issues on the record in the Senate.

#### THE BUDGET— CLAWBACK OF OFFSHORE RESOURCE REVENUES

**Hon. Gerald J. Comeau:** Honourable senators, I do not know whether what the minister has said concerning those provinces which have revenues from non-renewable resources is entirely fair. Eventually, those revenues will run out. Without cutting back the transfers, those provinces are proposing that the clawback be reduced until such time as those revenues bring those provinces up to have status. At that point, they would be more than glad to provide funds for equalization payments to those provinces that are not as well off as Newfoundland and Nova Scotia. That is what is being proposed by those provinces; not the characterization which the minister is trying to portray, that these provinces want to have their cake and eat it too. They actually want to propose a method by which they will become revenue-producing provinces, thus contributing to the rest of Canada. At the end of the day, that is the goal of all provinces.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I am appreciative of that comment by Senator Comeau. I think more will be learned as the weeks go by.

#### AGRICULTURE AND AGRI-FOOD

##### GENETICALLY MODIFIED GRAINS— MANDATORY LABELLING

**Hon. Mira Spivak:** Honourable senators, my question is directed to the Leader of the Government in the Senate. I do not expect that he will be able to give me an answer today.

Organizations of the radical middle, such as Greenpeace, the National Farmers Union, the Saskatchewan Organic Directorate and the Canadian Organic Growers, are starting an advertising campaign in which they state that the greatest threat to wheat farming is not hail or drought but Roundup-ready wheat. They are not alone in their concern. Yesterday, the Canadian Wheat Board released information showing that 87 per cent of Canada's wheat customers, especially Japan, now require guarantees that they are not receiving genetically modified wheat.

As well, a poll conducted by Decima Research Inc. for Greenpeace in March 2003 showed that 60 per cent of Canadians would avoid products made with GM wheat. Over 90 per cent of Canadians polled have stated consistently that they want labels on food containing GM ingredients.

Since we know that Monsanto will most likely not change its mind, what is the government's policy on genetically modified wheat at this stage? Has the government come to some conclusion about what they will do about this particular issue?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I cannot address specifically the question that Senator Spivak raises. However, in a general way, I should like to reflect that the customer decides what the producer grows because the market is golden. If the market does not want genetically modified wheat, I am fairly sure that the customer will get the kind of wheat it wants.

**Senator Spivak:** With respect, the Leader of the Government may be underestimating the power of the lobbying that Monsanto conducts. I have been through it with other products. However, I take the minister's comment as hopeful.

I would like to know what the situation is. I know there was movement toward voluntary labelling. Has the government changed its mind in terms of mandatory labelling of genetically modified products? Is there sufficient research and data to consider what damage genetically modified grains might be doing to organic farmers? In the United States, as people become more health conscious, the market for organic products is growing by approximately 30 per cent per year.

**Senator Austin:** Certainly, I will endeavour to get that information for the Honourable Senator Spivak.

It appears to me that this would be an excellent subject for an inquiry in this chamber. The honourable senator might consider initiating such an inquiry.

While I am on my feet, I might say that the silence on the opposition side in questioning the government's announcement in Picture Butte about aid to the agriculture industry in the amount of \$995 million must mean that they agree that these policies are desirable.

**Senator Lynch-Staunton:** Six months too late!

#### CANADIAN WHEAT BOARD— DISPARITIES IN PRICE OF WHEAT

**Hon. Leonard J. Gustafson:** Honourable senators, I was about to rise and congratulate the government on its announcement. The Senate Agriculture Committee and the committee in the other place work very well together. The battle is not won. The battle will not be won until the border is open.

On that count, I want to say that I had the privilege of travelling to Washington with Senator Grafstein, who knows everybody there. When he walks through a door, he does not take no for an answer. More of those kinds of representations should be made by members on both sides of the house. We hope that the border will be opened shortly.

However, that is not the subject of my question today. I did considerable research on the question that I wish to ask today. This morning, in Crosby, North Dakota, at nine o'clock

Saskatchewan time, a bushel of wheat sold for \$5.66 Canadian. Weyburn Inland Terminal, with an interim advance, is selling a bushel of wheat for \$3.46 Canadian. Given the problems that we have on the Prairies and the difficulty farmers are facing, we cannot sustain this kind of disparity with the input costs that we have. It has been said that you should never ask a question to which you do not know the answer. Honourable senators, I will do just that.

Can the Leader of the Government give us any indication as to why this situation exists, and what can be done about it?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, obviously, I do not have any information at hand to give to the honourable senator on this question. I will make inquiries. I certainly have had the understanding that Canadian wheat growers had open and competitive access to the U.S. market. The U.S. has tested the role of the Canadian Wheat Board and it has been sustained in the international trade system.

With respect to Senator Grafstein, he is one of the great resources of the Senate in many different ways. In particular, he has become the parliamentary ambassador to the United States. I, too, have travelled with Senator Grafstein to Washington in times past and have been amazed at the number of congressmen and senators with whom he is on a first-name basis. They call him Jerry and say, "It's great to see you!" He does get through the door, taking our message with him. The honourable senator's comments with regard to Senator Grafstein are well deserved.

**Senator Gustafson:** The price differential between a bushel received in Western Canada and a bushel received in the U.S. is one thing. I also investigated the price of soft white wheat in Ontario. Today, in Ontario, the price for a bushel of soft white wheat is \$5.10. The futures price for September is \$6 per bushel, and they can sell it directly into the United States. Why are there two standards for grain prices in Canada?

• (1510)

**Senator Austin:** Honourable senators, Senator Gustafson is obviously questioning the role of the Canadian Wheat Board. That is an old and long dialogue. If the honourable senator wants the generic answer — and this is a question to which he knows the answer very well — I will supply it as quickly as I can.

**Senator Gustafson:** Honourable senators, the problem with that approach is that Canada's farmers will not be able to withstand these low prices. We have a global problem that has to be dealt with. These American prices are before subsidies. The Americans receive additional subsidies on top of the \$5.66 per bushel. I am simply saying that our farmers cannot withstand the situation. We will end up with farmers who are broke if something is not done.

**Senator Austin:** Honourable senators, I intend to learn a great deal more about this issue very quickly.



## HEALTH

## THE BUDGET—FUNDING OF NEW INITIATIVES

**Hon. Brenda M. Robertson:** Honourable senators, my question arises from the budget yesterday. Tuesday's budget announced \$665 million in funding over three years for public health, including the proposed national public health agency. Of this amount, \$404 million will be reallocated from Health Canada, with only \$165 million in new money.

Canada's health care system is severely underfunded. Paying for these new public health initiatives through the existing budget will put a strain on the system. If there is such a strong commitment to public health, why were these initiatives mainly funded with existing dollars and not new ones?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, it is to get the best value for government funds available.

**Senator Robertson:** I will have to challenge that response at another time.

## INDEPENDENCE OF NEW PUBLIC HEALTH AGENCY

**Hon. Brenda M. Robertson:** Honourable senators, last week the *Canadian Medical Association Journal* criticized the government's plans to create the new public health agency as an arm of Health Canada, instead of making it independent as the government has been repeatedly asked to do. Could the Leader of the Government in the Senate tell us the federal government's response to the CMA's concerns?

**Hon. Jack Austin (Leader of the Government):** The government's response is in the budget. It is intended that a public health agency be created as an agency still responsible to a minister of the government, but operating independently of Health Canada and reporting directly to the minister.

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, I have the honour of presenting six delayed answers to oral questions.

The first is in response to a question posed in the Senate by Senator Comeau on March 9, 2004, regarding the Auditor General's report on the sponsorship program's grant to Bluenose II Foundation.

The next four delayed answers are in response to four oral questions posed in the Senate by Senator Forrestall: on February 5, 2004, regarding the status of the investigation into the death of Corporal Jamie Murphy; on March 10, 2004, regarding an incident involving an Aurora aircraft; on March 11, 2004, regarding the Aurora Incremental Modernization Project; and on February 5, 2004, regarding the delivery of the G Wagons to, and the use of the Ilits jeep in, Afghanistan.

The last delayed answer is in response to an oral question posed by Senator Kinsella on March 11, 2004, regarding whistle-blowing protection.

## PUBLIC WORKS AND GOVERNMENT SERVICES

## AUDITOR GENERAL'S REPORT—SPONSORSHIP PROGRAM—GRANT TO BLUENOSE II FOUNDATION

*(Response to question raised by Hon. Gerald J. Comeau on March 9, 2004)*

The Government has a comprehensive set of measures to deal with the Sponsorship Program including:

- an independent Commission of Inquiry and
- Special Counsel for the recovery of funds;
- ongoing investigations by the RCMP; and
- the work of the Public Accounts Committee.

The Minister as written to the Honourable Senator Wilfred P. Moore inviting him or the event organizer to submit any supporting evidence to the attention of the Quebec Superior Court Justice Mr. John Gomery, in charge of the Public Inquiry.

If anyone has any evidence of wrongdoing, it should be brought to the attention to these different inquiries.

The Government takes this issue very seriously. We have responded and continue to respond to any and all allegations of wrongdoing.

## NATIONAL DEFENCE

## AFGHANISTAN—INVESTIGATION INTO DEATH OF CORPORAL JAMIE MURPHY

*(Response to question raised by Hon. J. Michael Forrestall on February 5, 2004)*

The Canadian Forces are conducting a thorough and comprehensive investigation into the suicide attack. This investigation is ongoing and until such a time as it is complete, it would be inappropriate for me to speculate on its findings or the timings of the investigation.

Within the past month, the claims of the Taliban that the suicide bomber was Abdullah Khadr have proven to be false.

## INCIDENT INVOLVING AURORA AIRCRAFT—SCHEDULE OF INCREMENTAL MODERNIZATION

*(Response to question raised by Hon. J. Michael Forrestall on March 10, 2004)*

The aircraft was conducting routine operations under normal circumstances when a problem developed with one of the engines, leading to an uncontrollable propeller overspeed. The situation, though serious, was brought under control and the aircraft landed without further incident.

The Air Force decided, based on the nature of the incident, and the historical performance of the aircraft, that operational restrictions are not required on the fleet at this time.

The incident is currently under investigation by the Department of National Defence and it would be inappropriate to discuss any possible causes of the incident or results of the investigation until after the investigation has been completed.

#### UNTENDERED CONTRACT TO GENERAL DYNAMICS CANADA

*(Response to question raised by Hon. J. Michael Forrestall on March 11, 2004)*

The Department of National Defence is modernizing the Aurora through an incremental approach, which allows the Aurora fleet to continue to meet Canada's critical surveillance needs while undergoing major upgrades.

The project is progressing well and we are confident that it will be completed on schedule and on budget, and meet its operational goals. Data Management System production on the Aurora will commence in 2008 and the fleet will be operationally equipped in 2010.

The Data Management System contract was awarded on a competitive basis to General Dynamics Canada on May 31, 2002. This contract embodies the largest block of the modernization effort, including mission systems and software, in addition to the integration of state-of-the-art sensors.

All contracts issued under the Data Management System have been fully tendered. Amendments to the original contract have been made; however, this is not unusual for such a complex project. All amendments to the project have been subjected to the appropriate approval processes for spending and procurement, and are within the original approved scope of the Aurora Incremental Modernization Project.

#### AFGHANISTAN—USE OF ILTIS JEEP

*(Response to question raised by Hon. J. Michael Forrestall on February 5, 2004)*

The Mercedes Benz G Wagon is a proven off-the-shelf light utility vehicle that is used by over 21 countries. It is a versatile vehicle that is equipped with the latest technical innovations, and can be fitted with additional armour when required.

60 G-Wagons have arrived in Afghanistan and are being used to replace basic ILTIS vehicles. However, there are

some ILTIS vehicles that have been outfitted with additional equipment and are still being used in certain situations in Afghanistan.

#### TREASURY BOARD

##### WHISTLE-BLOWING PROTECTION

*(Response to question raised by Hon. Noël A. Kinsella on March 11, 2004)*

Since legislation has been tabled and since it will cover all public servants not only those who are unionized, it is the Government's view that the legislative approach is more opportune. Moreover, this approach is less susceptible to the vagaries of collective bargaining such as the individual preoccupations of 17 different unions and their individual timetables. As such, consistency of application may be achieved which would not be possible otherwise.

#### ORDERS OF THE DAY

##### BUSINESS OF THE SENATE

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, I would like to call the Orders of the Day in the following order: first, Bill C-4, the ethics bill, followed by Bill C-18, the equalization bill; then Bills C-26 and C-27, and then Bills C-8, C-22 and C-24.

#### PARLIAMENT OF CANADA ACT

##### BILL TO AMEND—THIRD READING— DEBATE SUSPENDED

**Hon. Jack Austin (Leader of the Government):** moved third reading of Bill C-4, to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence.

He said: Honourable senators, last week the Prime Minister said in a widely reported speech to the Quebec Chamber of Commerce, "Nothing is more important than integrity. Integrity of the individual. Integrity of government." He spoke about changing the way Ottawa works, saying that this is not a slogan; it is a reality.

Honourable senators, I have been in the Senate for over 25 years. I know something of this institution, and I know many of you very well. I know that, whichever side of the chamber we are on, we all agree with the Prime Minister on the critical importance of integrity, at the personal level and at the institutional one.

Some of us, however, are not convinced that any change is required. Some senators I know believe that there have not been any ethical scandals in this chamber, so no change is necessary. Others accept that some change is necessary but feel that we have managed our own ethical standards well so far, can continue to do so, and Canadians will be just fine with that.



Honourable senators, we cannot ignore what is happening around us. As I said here on second reading of this bill, there is no issue that is more debated today than the issue of integrity — integrity in government, in the private business sector and in religious institutions.

We are not above this debate, honourable senators. We are, and are proud to be, a part of the Canadian democratic system. We serve the Canadian public and must respond to their concerns about ethics and integrity in our political system. Today, it is simply no longer good enough for us to know that we are honest and act with integrity. We serve the Canadian public — that is what we accepted in coming to this chamber — and the Canadian public must be able to see that we are acting with honesty and integrity. I believe that nothing less than the credibility of the Senate is at stake.

One witness who appeared before the Rules Committee last week was very frank with us. Professor Ian Greene, a political science professor at York University, told us:

The Canadian Senate does good work, but the work of the Senate is undervalued and therefore less effective than it could be because of the absence of good ethics legislation that covers the Senate.

Perception is important, honourable senators, as we well know. It is possibly more important in matters of ethical conduct than in just about any other area. Professor Greene told us, speaking again very frankly, that there is the perception in some academic quarters that a number of senators have been in conflict of interest positions, but there were no rules to prevent it. He added that he believed that is the perception among many opinion leaders, that rules are needed in the Senate and that it can become a more credible and effective body once the appropriate rules are in place.

Honourable senators, I have great confidence in the ethical standards and behaviour of my colleagues here, but we ignore these perceptions at our peril and we risk the credibility of the Senate as well.

How would Bill C-4 help? Bill C-4 is a very limited bill. All that it does — but this is critically important — is to establish the office of an independent ethics commissioner for members of the House of Commons and public office-holders, and the office of an independent ethics officer for senators. That is all it would do.

Some senators have suggested that with the passage of this bill, we would be required to open up our books, files, wallets, banks accounts, debts and so on. That is simply not the case. Nothing in this bill requires any disclosure of anything to anyone. After passage of this bill, it will be up to this chamber to establish the rules for a code of conduct. If honourable senators decide to require confidential disclosure of private interests to the Senate ethics officer, then and only then will disclosure to him or her be required. If honourable senators decide to require public disclosure of certain interests, then and only then will that be required.

• (1520)

However, honourable senators, this bill requires none of that. This bill only establishes the office of the independent Senate ethics officer. It will be up to us, honourable senators, to decide what the Senate ethics officer will do, what he or she will be allowed to ask, what if anything we would be expected to tell him or her, and how the entire process will work. This is explicit in the bill itself. Clause 20.5(1) says:

The Senate Ethics Officer shall perform the duties and functions assigned by the Senate for governing the conduct of members of the Senate when carrying out the duties and functions of their office as members of the Senate.

Justice Minister Cotler told the Rules Committee on March 10, 2004:

... the Senate ethics officer is a creature of the Senate. He or she is responsible to the Senate. Senators determine the parameters and contours of that office of the Senate ethics officer. If that Senate ethics officer should act in bad faith and go outside the performance of his functions to do what he does, then honourable senators have the ways and means to hold that person accountable.

I believe there is consensus in this chamber that we need to have a code of conduct and that an independent Senate ethics officer should oversee such a code of conduct. This bill establishes the office of the Senate ethics officer, to give us the institutional structure to proceed with a code of conduct.

Some have suggested that we are putting the cart before the horse, providing for the establishment of the office before we have a code of conduct. This is one of those situations where it is difficult to know which is the horse and which is the cart. We are committed to a code of conduct, and work is proceeding in our Rules Committee to draft a code for our consideration. However, we need the institutional framework, the independent Senate ethics officer, as a critical piece of the process in renewing our commitment to integrity and ethical conduct in this chamber. That is what this bill will do, and that is all that this bill will do.

I wish now to turn to some of the issues that have been raised about the bill. Some senators are concerned, I know, about the manner of appointment of the Senate ethics officer. The clause in question is clause 20.1:

The Governor in Council shall, by commission under the Great Seal, appoint a Senate Ethics Officer after consultation with the leader of every recognized party in the Senate and after approval of the appointment by resolution of the Senate.

In my speech at second reading, I went into detail about the legal precedents for the Governor in Council role in the appointment. I do not propose to repeat those arguments except to say that this has been the accepted procedure for the appointment of parliamentary officers since Confederation and before. I wish to focus on why I believe this provision is necessary.

The critical objective is to ensure that the Senate ethics officer both is and is clearly seen to be independent. Let us be clear what independence we are talking about. He or she must be — and must be seen by Canadians to be — independent of us, the people whose conduct he or she will be overseeing.

How do we achieve this independence? Two fundamental elements are security of tenure and security of compensation. We have debated these issues frequently in the context of the critical importance of these elements for judges. We should apply the same standard in establishing an independent ethics officer for ourselves.

I will address each of these subjects briefly, but in reverse order. Security of compensation, or “follow the money” as one senator aptly put it, requires us to look at where the pay comes from and how it is determined. Under the amendment moved last year by Senator Bryden, the Senate would determine the amount of pay. Honourable senators, however we may try to couch it in the rules, this would clearly be a “one-off” pay standard, established by us uniquely for the Senate ethics officer and always subject to our discretion. That is not my definition of independence.

The bill provides that the Senate ethics officer would have the rank of a deputy head of a government department, that is, a deputy minister, and would be remunerated by the Governor in Council. Objective standards are set for such remuneration and they are the subject of an independent process. The government would have little in the way of discretion in establishing the pay and other conditions of employment for the Senate ethics officer.

Security of tenure means that the Senate ethics officer must be able to know that his or her job does not depend on our liking or agreeing with his or her opinions or recommendations. That is one of the fundamental problems with the amendment moved last time by Senator Bryden. By placing the hiring and firing within our control completely, there is no security of tenure. I know that Senator Bryden argues that we can write into the rules all kinds of safeguards, but we, or a Senate in the future, can simply change the rules. More important, the Senate ethics officer would know — and certainly the Canadian public would know — that this is a possibility. How will Canadians believe that we are truly being advised by someone independent of us if we have that kind of power over that individual?

The bill strikes what I believe is a good balance. The Governor in Council makes the appointment after consultation with the leader of every recognized party in the Senate, and after approval of the appointment by resolution of the Senate. We cannot appoint the person on our own, but neither can the Governor in Council. We must agree — and we each can serve as a critical check and balance on the other's power. The Senate and the Governor in Council have a veto over the appointment. That is a balance of power totally appropriate to this situation.

This kind of balance is not unique to this bill. Similar provisions are found in the statutes establishing ethics commissioners for British Columbia, Alberta, Manitoba, Ontario, New Brunswick,

the Northwest Territories and Nunavut. Quebec's jurisconsult is appointed by the National Assembly on the motion of the premier and with the approval of two-thirds of the National Assembly. In Newfoundland and Labrador, the commissioner is appointed by the House of Assembly on the motion of the premier following consultation with the leader of the official opposition and representatives of the other registered parties having representation in the assembly. This balance has been demonstrated to work very effectively. To repeat, the Senate has a veto. Under the bill, the Governor in Council cannot appoint someone unless we have authorized it by resolution. That is a very powerful role.

Some senators will jump up and point to the fact that the bill authorizes the Governor in Council to appoint someone to the position on an interim basis, in the event that the Senate ethics officer is absent or incapacitated, or if the office is vacant. Honourable senators, this is a standard clause. Similar provisions are found in provincial and territorial statutes and it makes sense. There must be the ability to fill the position quickly on an interim basis should the circumstances require. Bill C-4 is clear that the appointment is for a term up to six months.

As I pointed out at second reading, there are similar provisions at the federal level with respect to other officers of Parliament, namely, the Auditor General, the Privacy Commissioner and the Information Commissioner. The provision applies to avoid a vacancy and, therefore, the absence of application of the code of conduct until the Senate agrees on a resolution to be sent to the Governor in Council.

The bill requires that there be prior consultation and approval of the appointment by a resolution of the Senate before the Governor in Council can make the appointment. As a minister of the Crown, on February 24, 2004, I stood here in my place and made a further commitment. I said:

...on behalf of the government I now make a commitment that prior to sending the Senate the name of any person to be proposed to the Senate to be a Senate ethics officer, the Leader of the Government in the Senate shall be authorized to consult informally with the leaders of every recognized party in the Senate and with other senators, and shall be authorized to submit to the Governor in Council the names of such persons who shall, in the opinion of the Leader of the Government in the Senate, have the favour of the leaders of every recognized party, as well as the support of the majority of the senators on the government side, and the majority of the senators on the opposition side.

The Governor in Council, in turn, will make every effort to accommodate the interests of the Senate in ensuring that the Senate ethics officer is both seen to be independent and is in fact independent in the discharge of those duties that will be assigned to the Senate ethics officer under the code of conduct the Senate decides to adopt.



• (1530)

There has been a great deal of discussion about the status of my undertaking. Honourable senators, of course, I cannot bind future governments to accept this undertaking. That is not the nature of our democratic system. Just as the Parliament of Canada cannot bind future Parliaments, so this government cannot — and, frankly, should not be able to — bind future governments. That would undermine our whole system of electoral politics. This government believes that this undertaking has the power of being a good, workable, appropriate approach to this issue. For that reason, we believe that future governments will see fit to follow it. It is the government's hope that, with time, it will develop into a convention.

Undertakings are serious matters. As a minister, I take my undertakings very seriously indeed, and I know that the government that I serve will respect my undertaking to you. This is not something to be taken lightly. That, too, is a part of integrity. In fact, precedents have a particular significance here in Parliament. Honourable senators, allow me to quote from Beauchesne's *Parliamentary Rules & Forms*, 6th edition, at page 6:

Parliamentary Law is something quite different from the ordinary Civil Law or Common Law. Parliamentary Law is based on centuries of tradition and precedents which have marked the evolution of parliamentary freedoms from the time that the first Parliaments were governed under the Divine Right of Kings to the stage of parliamentary sovereignty which we have now acquired.

Of course, should a future government fail to observe this undertaking, the Senate has a powerful sanction at its disposal. Under proposed section 20.1, the Senate can simply not deal with the resolution approving the proposed appointment. That clause, as Professor Fabien Gélinas agreed, clearly gives the Senate the last word on the appointment. Professor Gélinas has suggested — and I know this view is shared by at least some honourable senators opposite — that my undertaking may be too vague for a convention to be formed and recognized in the future. When I pressed him on this, he elaborated that he was concerned about my statement that the Leader of the Government shall be authorized to consult informally with the leaders of every recognized party in the Senate and with other senators. Professor Gélinas said that much will depend on the definition of the words “authorized,” “consult” and “informally.”

Honourable senators, I trust you will agree that my authority to give the undertaking is not in question. The system simply does not go behind ministers' statements.

I believe we are clear as to the meaning of “consult.” Professor Gélinas is perhaps unfamiliar with the Senate. This commits the Leader of the Government to talk to the Leader of the Opposition in the Senate. I rely on his integrity to tell me whether the individuals being discussed have the support of a majority of his supporters. My undertaking also commits the Leader of the Government to consult with independent senators, and the leader

is also committed to ensuring that the senators on the government side support the individuals as well.

Finally, Professor Gélinas was concerned about the word “informally.” Once again, honourable senators, we have established ways of working here, and I quite appreciate that Professor Gélinas is not well versed in them. I think we recognize that these consultations cannot take place in a formal setting, nor must they. We all know that one must build up confidence in an informal process before one can move to a more formal one.

Let me remind honourable senators once again of the wisdom of Viscount Whitelaw in commenting on the practices of the House of Lords. He said:

I have learnt that a certain flexibility, together with a certain understanding of convention, has worked much to the benefit of this House.

Honourable senators, once again, let me say that, if the leader of the day has not correctly understood what has taken place, the Senate has the power not to pass the necessary resolution.

Before I conclude, I should like to address three other matters that have been raised. Some senators have questioned whether the bill is constitutional. They point to section 18 of the Constitution Act and argue that under that section Parliament cannot pass legislation to extend privileges beyond the privileges held at that time by the British House of Commons. They then point to *Rost v. Edwards*, a 1990 decision of the British Court of Queen's Bench, a trial court in Britain, which held that the British Registrar of Interests, a public document in which members disclose their private interests, is not privileged.

Honourable senators, I do not propose to detail the legal cases on this point. Suffice to say, the correctness of the *Rost* case has been questioned by two senior courts in Britain and by Erskine May. The Privy Council said:

In particular, it is questionable whether *Rost v. Edwards*, [1990] 2 All ER 641, [1990] 2 QB 460 was rightly decided.

That was in the case of *Prebble v. Television New Zealand Ltd*, a 1994 decision of the Judicial Committee of the Privy Council.

In 1998, the English Court of Appeal quoted *Prebble* approvingly, and specifically endorsed a generous approach to matters of privilege at issue. The issue there was directly on point for the matter of concern to us, more so than *Rost*. The issue was whether a court could look at what the Parliamentary Commissioner for Standards, the British House of Commons equivalent to the Senate ethics officer, did in an investigation. The court concluded that it lacked jurisdiction to review the commissioner, that the Office of the Parliamentary Commissioner for Standards was valid and constitutional and that how it functioned was beyond the review of the courts.

Justice Minister Cotler provided the Rules Committee with a detailed analysis of the law on this issue. He concluded:

In conclusion, British jurisprudence supports the conclusion that the subject of a code of conduct in the private interests of members with respect to members of the House of Commons performing their duties as such fall within the privileges, immunities and powers of the British House of Commons. Consequently, in that respect, Bill C-4 is constitutional legislation under section 18 of the Constitution Act.

Senator Grafstein asked about clause 1 of Bill C-4. That clause repeals sections 14 and 15 of the Parliament of Canada Act. I will quote the question raised by Senator Grafstein:

The provision is very interesting. It has a deep history. The provision provides that you cannot directly or indirectly, as a member of Parliament, either a senator or a member of the House of Commons, benefit knowingly or wilfully from a government contract. If you do, there is a very unique penalty, which is forfeiture.

Let us assume someone took a half a million dollars or benefited by that amount. Then the power of the statute allows the Crown or any agency to forfeit that money. Here is the question. If in fact we change that into a rule, would the Senate therefore have the power to forfeit that money from an offending senator, or, in the House of Commons, could the House in effect seek a remedy of forfeiture under its rules?

I have studied the provisions in question very carefully with respect to Senator Grafstein, and I am very cognizant of his astute legal skills. I read the provision somewhat differently. Section 14 of the Parliament of Canada Act uses the terms "forfeit" and "forfeiture," but in a way that is actually synonymous with a fine. The section generally prohibits senators from being party to certain government contracts. The forfeiture subsection, section 14(2), says:

Any person who contravenes subsection (1) shall forfeit the sum of two hundred dollars for each day during which the contravention continues.

Honourable senators, that is not a forfeiture of ill-gotten profits but, rather, a fine of \$200 a day. There is no power under these sections to recoup the half million dollars in Senator Grafstein's example; there is just the power to impose a fine of \$200 per day that the contravention continues. A fine by any other name, whether forfeiture or something else, is still a fine, honourable senators. Indeed, one could imagine that for someone in Senator Grafstein's hypothetical example a \$200-per-day fine could be seen by some as an acceptable cost of doing business. It bears no relation whatsoever to the profits or the impropriety of the act. Indeed, the procedure required to impose this fine set out in sections 14 and 15 — section 15 being the other section of the act that would be repealed — is archaic. Rather than something that can be imposed on a finding of a breach of the section, the bill requires that the proceedings be brought "by any person who sues

for it in any court of competent jurisdiction in Canada." Further, those proceedings must be initiated within one year of the time when the forfeiture and/or fine was incurred.

• (1540)

I will also point out that the prohibition against government contracts contained in section 14 was clearly written for another time. Indeed, the drafting has had unfortunate results. While the proposed section appears to prohibit a senator from entering into a contract with the Government of Canada, the exceptions are so broad as to make the prohibition of very limited application today. At the same time, this is the infamous section whose drafting has been interpreted to prevent senators from serving on the boards of charitable organizations that receive government funding.

These are archaic provisions designed for another time. I thank Senator Grafstein for raising them, as they demonstrate the pressing need for an updated set of rules with a modern system to ensure that they are followed.

Another issue that was raised concerns the privileges that the bill specifies will attach to the Senate ethics officer. Some senators have noted that the bill provides explicitly that the Senate ethics officer "enjoys the privileges and immunities of the Senate and its members when carrying out those duties and functions." I am referring to section 20.5(2). They have suggested that this is redundant; if the Senate ethics officer were carrying out his or her duties within the Senate, then he or she would have the privileges without that provision.

Honourable senators, I will only say that this provision was included in the bill to respond to concerns expressed by our Law Clerk and to assuage concerns expressed by some honourable senators who were anxious to be absolutely clear that the actions and activities of the Senate ethics officer would be protected by privilege.

The last issue I want to address was raised yesterday, immediately before the scheduled clause-by-clause consideration of this bill by the Rules Committee. Mr. Reid, the Information Commissioner, expressed for the first time concern that the activities of the new ethics commissioner would not be subject to the Access to Information Act. The current Ethics Counsellor, the position now held by Howard Wilson, is subject to the act.

I would point out that Mr. Reid was very clear that he has no objection to the bill insofar as the Senate or the Senate ethics officer is concerned. His only concern is with respect to the ethics commissioner, and specifically with respect to the ethics commissioner's oversight of public officeholders.

In general, honourable senators, we have been respectful of the choices made in the other place with respect to their ethics commissioner, just as we expect them to be respectful of our choices with respect to the Senate ethics officer. Nevertheless, I wish to address the concerns that were raised.



First, I want to clear up a point on which there seemed to be some confusion among senators yesterday. Some senators appeared to conclude from Mr. Reid's testimony that the bill would exempt public office-holders — of whom there are some 2,400 — from the Access to Information Act. Honourable senators, this is absolutely not the case. Public officeholders, senior civil servants, Governor in Council appointees, and so on, will still be subject to the Access to Information Act. All the usual matters related to their performance of their duties that are accessible today will continue to be accessible. Canadians will still be able to file access requests and obtain the same information about the workings of their government and the regular activities of public office holders performing their duties. The only thing that will change will be the ability to file requests about any dealings the public office holders may have had with the ethics commissioner.

Again, let me be clear: Mr. Reid was not expressing any concern with respect to the bill's provisions concerning cabinet ministers, ministers of state or parliamentary secretaries, who are all public office holders. This bill establishes a strong regime of increased transparency and public accountability. The bill is very clear, for example, that if the ethics commissioner receives a complaint from a parliamentarian about a possible breach by a cabinet minister of the Prime Minister's code of conduct, then the ethics commissioner is required to examine the matter and report. That report must be made available to the public.

The issue that was raised in the committee by Mr. Reid related to the other public office holders, mainly senior civil servants and other Governor in Council appointees. Under the bill, their dealings with the ethics commissioner would not be accessible under the Access to Information Act. In fact, we were told that the Privacy Act has operated to ensure that personal information is not released. It is thus far from clear that the right to request this information about senior civil servants and Governor in Council appointees has ever yielded any information.

However, I find it difficult to imagine any information about a senior civil servant in the Ethics Counsellor's files that would not have been exempt from release. The nature of the dealings would likely be things like confidential disclosure of one's bank accounts or other private interests and, perhaps, confidential advice received from the Ethics Counsellor. Certainly, we were told very clearly that this was never an open ended accessible issue, so it is not clear to me that the bill is shutting down an open and important window on the workings of our government.

In any event, there is a point of principle here. The current Ethics Counsellor is, as we all know, not an officer of Parliament. He is a government employee, a civil servant. One of the critical objectives of this bill is to create an ethics commissioner who is an officer of Parliament. As such, the ethics commissioner will report directly to Parliament, something that the Ethics Counsellor does not now do.

Mr. Reid was very frank when he appeared yesterday before the committee. In his view, all officers of Parliament should be subject to his jurisdiction under the Access to Information Act. The fact

is, however, that the Auditor General is not subject to the Access to Information Act; the Privacy Commissioner is not subject to the Access to Information Act; the Information Commissioner himself is not subject to the Access to Information Act, and the ethics commissioner would similarly not be subject to the act.

Mr. Reid said that he freely answers any requests for information about his office. That is a different thing. He is not required to do so under the act. The critical point, honourable senators, is that officers of Parliament report to Parliament. They do not, as Mr. Reid suggests, report to each other, nor do they report through each other to us. They report to us, and they are responsible to us. I believe that is the correct and proper system, and that is what is reflected in the bill before us. Mr. Reid was very clear. He said:

The power of a parliamentary committee is significantly greater than that of the citizen under the Access to Information Act.

The House of Commons has the power to call for information with respect to the ethics commissioner, notwithstanding that the office is not subject to the Access to Information Act. Mr. Reid agreed; his argument was that, to date, Parliament has not seen fit to exercise this power very often. We saw this power exercised by Parliament in connection with the previous Privacy Commissioner, Mr. George Radwanski.

Honourable senators, the other place surely has the right to exercise its discretion when and how it chooses. I, for one, would be loath to presume to replace their discretion with that of the Information Commissioner.

Honourable senators, I believe this is a good bill. I believe that an independent Senate ethics officer will be helpful to us as individual senators and to the credibility of the Senate as an institution.

Is Bill C-4 a perfect bill? Honourable senators, in over 25 years in this place, I have yet to see a perfect bill. We are human, as are our drafters. Over time, indeed, we may find amendments that should be made to improve the processes being instituted in the bill, and that is, of course, the essence of our legislative process.

However, this bill has been a very long time in coming. The issue has been studied for more than 30 years, and various draft legislation has been prepared and studied for more than 10 years. In cases such as this, the expression "le mieux est l'ennemi du bien" applies.

Before taking my seat I want to express my thanks to all those senators who have played a key role in seeking an ethics officer and a code of conduct for the Senate. I hope the time has come. We must commend Senator Oliver for the work that he has done as expressed by the Oliver-Milliken report. Senator Raynell Andreychuk has long been a supporter of code of conduct legislation, and has shared her view on many occasions. Senator Beaudoin has also been a supporter of legislation on this topic.

• (1550)

On the government benches, a debt of gratitude is owed to many senators. I wish to mention Senators Carstairs, Milne, Bryden, Joyal and Kroft for the time and dedication they have given to this issue, as have many others in this place.

Honourable senators, we have a responsibility to Canadians and, I believe, to the institution of the Senate to act. I hope you will join me in supporting Bill C-4.

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, would Senator Austin allow a question?

**Senator Austin:** Certainly.

**Senator Lynch-Staunton:** My question is on the voting formula that is being proposed, which is novel. However, I am not convinced that it will be effective, because, as the government leader said, it is only binding on the present government. As we know, chances are that dissolution will take place in the next few months, if not the next few weeks. Hence, unless consultations begin immediately, I do not see the validity of this formula because of its short lifespan.

More important than that, I had sought at one time to propose an amendment to a bill — the subject matter is unimportant — to allow its passage with at least a two thirds majority. I was immediately referred by the Law Clerk to section 36 of the Constitution Act, 1867, which reads, in part: "Questions arising in the Senate shall be decided by a Majority of Voices..."

My question is to the Leader of the Government in the Senate is this: Does he have a legal opinion to confirm that his suggested formula — requirement of a majority on the government side and on the opposition side — does not contradict section 36?

**Senator Austin:** I appreciate Senator Lynch-Staunton referring to section 36 of the Constitution Act, 1867. The undertaking I have given does not require a vote. Rather, it requires a consultation and the approval of both the Leader of the Government in the Senate and the Leader of the Opposition in the Senate, as well as the advice of each that a majority of our respective supporters would support such a resolution. Thus, no vote is being taken. That is one of the answers I gave to a question posed by Senator Oliver at second reading.

**Senator Lynch-Staunton:** Does that mean that the Leader of the Opposition, to be an obstructionist, could refuse to admit that he had a majority of his supporters on side so that the issue would never be brought to a vote?

**Senator Austin:** I think that is what it means. I believe — and the government believes — that the appointment of a Senate ethics officer, as expressed in a resolution, should be non-partisan and should have the support of a substantial number of senators in this chamber. The position of ethics officer would be significant in respect of the work of the Senate and the role of senators.

**Senator Lynch-Staunton:** Surely, by denying a huge majority the right to support a bill by allowing the opposition, small as it might be, to allow that issue to come to a vote is not democratic, is it? I find that your formula plays into the hands of an obstructionist opposition, and I do not know if even I would want to be a party to that.

**Senator Austin:** Honourable senators, the convention has been, and, I believe, the overwhelming precedent has been, that the Leader of the Opposition, through the life of this chamber, whether Liberal or Conservative, would act responsibly in the interests of this chamber and would not arbitrarily provide false information in respect of the support of opposition senators.

**Senator Lynch-Staunton:** I want to choose the right words. I would never suggest that I would give false information. However, if we were only 10 in all and six disagreed, there could be six senators out of 100 refusing the right of the chamber to vote. That could well happen.

I am certain the whole matter is theoretical, and you have answered my question. It is not a question of a double majority in the chamber; each caucus must confirm a double majority to allow a vote in this place.

Do I understand that this commitment would be valid only for the present government and would be no longer valid following dissolution? It would not be binding on a future government. Similar to a minister's letter, it would be binding only on him and not on his or her successor.

**Senator Austin:** Honourable senators, the law of Parliament is such that no Parliament can bind a future Parliament. Therefore, undertakings are good and valid for this Parliament, which would, of course, survive a prorogation but not dissolution.

**Hon. Anne C. Cools:** Honourable senators, I wish to ask the government leader a question. In his remarks, he talked about the objective standards around the appointment of this proposed position. We have other officers of the Senate — for example, the Black Rod and the Clerk of the Senate. Could the honourable senator do a comparison for me? Would the proposed position be coordinate, superior, inferior or equal to the position of the Clerk of the Senate? The proposed position would be technically ranked "deputy head." What is the rank of the Clerk of the Senate? What is the security of tenure for the Clerk of the Senate and for the proposed Senate ethics officer? What is the removal process for the Clerk of the Senate and what would be the removal process for the proposed Senate ethics officer? I would like a better understanding of the subjectivity.

**Senator Austin:** Honourable senators, there were many questions put in that one question. The Clerk of the Senate has deputy minister rank under Order in Council. Removal of the clerk would be on an address by this chamber to the Governor in Council, as in this bill. However, this bill is superior in one way in terms of process — that is, this chamber controls the appointment of the proposed Senate ethics officer through the requirement that a resolution be passed. The other offices Senator Cools has mentioned do not give the Senate such a role.



With respect to how they rank in the world, they all have different functions, and so they do not rank by comparison.

**Senator Cools:** The honourable leader spoke about the removal process and the proposed position of deputy head. What is the security of tenure for the Clerk of the Senate, and what would be the security of tenure for the proposed Senate ethics officer?

**Senator Austin:** I would say that the clerk is doing an exceptional job, and so I cannot address a hypothetical question.

**Hon. Senators:** Hear, hear!

**Senator Austin:** Under the bill, as Senator Cools is well aware, the Senate ethics officer would be handed a seven-year tenure and could be removed only by Senate address to the Governor in Council and by action of the Governor in Council.

**Hon. Gerald J. Comeau:** Honourable senators, I want to be absolutely certain of this. Could the Leader of the Government confirm that the undertaking is binding only on the current Parliament? Hence, since we are expecting an election soon, the odds are that we would not have time to recruit a candidate for the position of Senate ethics officer. In other words, we would have time to pass the bill but not to recruit a candidate. Therefore, the appointment would probably occur in the new Parliament. For that reason, the minister's undertaking, even if he were to be the Leader of the Government in the Senate in a new Parliament, would no longer be valid. Am I reading this right?

**Senator Austin:** Honourable senators, as I have said, the undertaking can only be valid for this Parliament. That is the law of Parliament. According to Viscount Whitelaw, whom I have frequently quoted, the life and times of a Parliament develop, over time, precedents and conventions. They are followed through decades, in spite of the fact that no Parliament can bind another Parliament. I would hope that that might take place here.

I would also say that I could not speak to the future. I do not know who will be Leader of the Government in the Senate in another Parliament. However, I believe the undertaking is important and should be followed from time to time.

I would also say that what does not change from one Parliament to another is the existence of the rules. Should it be desired in the future to consider the undertaking in the rules, then that would be the business of the Senate at that time.

**The Hon. the Speaker:** Honourable senators, it being four o'clock, pursuant to the order adopted by the Senate on February 23, 2004, I am obliged to rise and interrupt the proceedings for the adjournment of today's sitting.

Debate suspended.

The Senate adjourned until Thursday, March 25, 2004, at 1:30 p.m.

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CANADA

# Debates of the Senate

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OFFICIAL REPORT  
(HANSARD)

Thursday, March 25, 2004

—◆—  
THE HONOURABLE DAN HAYS  
SPEAKER





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(Daily index of proceedings appears at back of this issue).

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## THE SENATE

Wednesday, March 31, 2004

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

[Translation]

### ROYAL ASSENT

#### NOTICE

**The Hon. the Speaker** informed the Senate that the following communication had been received:

#### RIDEAU HALL

March 31, 2004

Mr. Speaker,

I have the honour to inform you that the Right Honourable Adrienne Clarkson, Governor General of Canada, will proceed to the Senate Chamber today, the 31st day of March, 2004, at 3:45 p.m., for the purpose of giving Royal Assent to certain bills of law.

Yours sincerely,

Barbara Uteck  
*Secretary to the Governor General*

The Honourable  
The Speaker of the Senate  
Ottawa

[English]

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** I wish to draw the attention of honourable senators to the presence in the gallery of members of the Rwandan community visiting Parliament to help commemorate the genocide that occurred in that country in 1994. They are guests of the Honourable Senator Jaffer.

On behalf of all senators, I welcome you to the Senate of Canada.

## SENATORS' STATEMENTS

### COMMEMORATIVE NICKEL

**Hon. B. Alasdair Graham:** Honourable senators, last Monday, I was privileged, with the Honourable John McCallum, Minister of Veterans Affairs, to represent the Government of Canada at the

unveiling of a commemorative nickel that fittingly begins the year of remembrances marking the sixtieth anniversary of the invasion that turned the tide of the Second World War, known as D-Day and the Battle of Normandy.

The commemorative coin produced by the talented people at the Canadian Mint is modelled on the 1942 torch and V nickel, one that I remember well as a child when I was not much older than the members of the Halifax Boys Honour Choir who brought the spirit of the future of Canada to a packed house that included more than 60 Normandy veterans, heroic figures from our past.

The prominent V recaptures Winston Churchill's victory sign, a sign of courage and steadfastness to his countrymen in the face of an enormous and deadly threat to the nation. In memory of John McCrae's immortal words — "The torch; be yours to hold it high" — the torch rises from the V sign.

Fittingly, a recent portrait of Queen Elizabeth adorns the other side, the daughter of King George VI who inspired Allied nations by refusing to abandon Buckingham Palace during the Blitz and who, with his wonderful wife, Queen Elizabeth, mother of the present Queen, graced our country during the war, bringing fresh resolve to Canadians from coast to coast.

On June 6, 1944, Allied troops stormed the beaches of Normandy with Canadian airmen and sailors in the first wave. More than 359 Canadians were killed that day, a monumental sacrifice that would lead to the liberation of Europe.

I do not need to remind honourable senators that the Canadian contribution was front and centre in that historic liberation, nor of the fact that of all the divisions that formed part of Montgomery's 21st Army Group, none suffered more casualties than the 2nd and 3rd Canadian.

It was a source of great pride to me personally that the commemorative torch and V nickel ceremony was held at Pier 21 in Halifax, which has been so lovingly restored, where tens of thousands of Canadians boarded ships bound for Europe in the war years. On July 1, 1999, I had the honour, as the representative of the Government of Canada, to officially open the restored Pier 21.

Between 1928 and 1971, over one and a half million immigrants chose Canada, a promised land of peace and freedom. That they could do so was a gift from all of those immortalized in this glorious nickel — those who days ago "lived, felt dawn, saw sunset glow" — yes, all of those who passed the torch to new generations. Now it is our turn to hold it high.



## THE HONOURABLE WILBERT J. KEON, O.C.

### TRIBUTE ON RETIREMENT FROM UNIVERSITY OF OTTAWA HEART INSTITUTE

**Hon. Marjory LeBreton:** Honourable senators, I rise today to recognize a milestone in the life of one of our colleagues. As most senators may know, this is Senator Wilbert Keon's last day as President and Chief Executive Officer of the University of Ottawa Heart Institute. His life's work has been founding and building the Ottawa Heart Institute, one of the very best of its kind, not just in Canada, but in the world.

Since it was established in 1976, the Heart Institute has become a global leader in the creation of programs designed to prevent heart disease, and it is Canada's only complete cardiac centre, with the country's largest artificial heart program.

Honourable senators, it is impossible to overstate how much of the Heart Institute's great success is owed to Dr. Keon. For 30 years, he has been its guide and champion, dedicating long hours to the well-being of his patients and making sure his staff provides the highest level of care. Senator Keon has referred to the people of the Heart Institute as his second family, and I am certain they return his feelings in full measure.

The citizens of Ottawa recently acknowledged their own gratitude for all that Senator Keon has accomplished, as his last fundraising telethon as head of the Heart Institute drew pledges of almost \$4 million, a record amount. The institute he established has found its own way to pay tribute to Dr. Keon on his retirement. A monument in his honour, unveiled today at the Ottawa Heart Institute, is inscribed with the following words: "One of the greatest heart surgeons of his generation who also demonstrated extraordinary compassion throughout his remarkable career."

• (1340)

Honourable senators, although the patients, staff and volunteers of the Ottawa Heart Institute will miss him, we are fortunate that he has many more years of service before him here in the Senate of Canada. Today Senator Keon may mark the end of one part of his life, but I am sure there are many new adventures and challenges that lie ahead of him. The Ottawa Heart Institute stands as proof positive that when he meets challenges, all of us benefit. On behalf of fellow senators, caucus members and friends, we wish Senator Keon the happiest retirement from the Ottawa Heart Institute and much success and enjoyment in his future endeavours.

## EIGHTIETH ANNIVERSARY OF CANADIAN AIR FORCE

**Hon. Joseph A. Day:** Honourable senators, I rise today to inform the house that this week marks the eightieth anniversary of an organization that is steeped in a tradition of professionalism and excellence, The Royal Canadian Air Force.

The details of the formation of Canada's air force makes for an interesting story. After the First World War, the issue of a permanent air force was hotly debated in both this chamber and in the other place. To resolve the problem, the government passed the Canadian Airborne Act in June of 1919. Under this act, there

was to be a seven-member board to oversee all air activity in Canada. The Air Board was to oversee three separate divisions: the Civil Aviation Branch, the Civil Operations Branch and the Canadian Air Force, which was primarily responsible for training rather than for defence. The Canadian Air Force was established on February 18, 1920. In April, six officers and men with temporary rank were appointed. The Canadian Air Force was to be a non-permanent organization responsible for bi-annual refresher training for former officers and airmen of the wartime Royal Air Force. On August 31 the Canadian Air Force Association was established to maintain a listing of personnel who had undergone training.

Camp Borden, north of Toronto, was the primary training facility, using hangars and other installations that had been erected by the Royal Air Force during the First World War. Those hangars are still in existence today and the efforts to preserve them as historic sites is deserving of our support. The British and American governments donated the aircraft and other equipment used at that time. At the end of the program in 1922, 550 officers and 1271 airmen had completed the course.

In the spring of 1922, it had become obvious that reorganization was necessary. It was decided to create a permanent Canadian air force by consolidating the Civil Operations Branch and the Canadian Air Force into one permanent military organization. The reorganization was completed and the prefix "Royal" was officially adopted on April 1, 1924. That date, on which Canada's Air Force became a permanent component of our armed forces, marks the birthday of the Royal Canadian Air Force.

To celebrate this event, 16 Wing and Borden's air force community will organize the majority of activities at CFB Borden from April 1 to April 3. Events will include the unveiling ceremony of a recently restored CF-100 Canuck and the naming of a historic hangar after one of Canada's World War I flying heroes. There will be other activities during the year. Funds raised from various activities will be used to preserve and promote Borden's air force heritage through the Base Borden Military Museum.

Congratulations to all CAF members and best wishes for a successful eightieth birthday celebration.

## THE SENATE

### SELECTION OF ETHICS OFFICER

**Hon. Gérald-A. Beaudoin:** Honourable senators, now that the Senate has clearly adopted the principle of Bill C-4, and because the formula enshrined in that bill is conventional in nature and of the British evolutionary type, it is possible for the Leader of the Government in the Senate, Senator Austin, in due course, to consult the leaders of the parties in the Senate to obtain their views on the choice of an ethics officer. This would mean that the Senate would be the first actor in the process of the selection of an ethics officer. This is exactly what we want. Thereafter, a short list of names could be sent to the Prime Minister for the selection of the ethics officer.

The time has now come for us to say, under the terms of Bill C-4, exactly what we want and to launch a system of selection. In my opinion, this is transparent and it will be acceptable to the public.

In the long history of the British parliamentary system, which has been adopted by Canada, many precedents and many conventions have been created. This was possible, because of the nature of the system. That is the genius of the British system.

[Translation]

Over the centuries, many conventions and precedents have been created. I truly believe that, by taking this approach, we could reach our objective.

#### THE HONOURABLE GÉRALD-A. BEAUDOIN, O.C., Q.C.

##### TRIBUTE ON RETIREMENT

**Hon. Jean Lapointe:** Honourable senators, I want to take advantage of the rule on tributes to salute, in my own way, a man I came to be very fond of here in this chamber.

I want to talk about an admirable man, the Honourable Gérald Beaudoin.

As Jacques Brel said in his song *Le moribund*, addressing his parish priest:

We did not set out from the same shore, but we were seeking the same port.

I have great admiration for this man, this highly competent legal expert, whose actions and presence in this chamber taught me that it is possible to be serious, very serious, with a smile on your face and a thought in the corner of your heart for the people we represent.

I do not know anyone who does not like or admire Senator Beaudoin. I am saddened at the thought of never again seeing in this chamber this man who hates no one. I think the upper house will drop a notch when he takes his leave.

Long life and good health to one of my favourite senators.

[English]

#### VISITOR IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I draw your attention to the presence in our gallery of Dr. Gail Dinter-Gottlieb, President and Vice-Chancellor of Acadia University. She is the guest of Senator Atkins.

Welcome to the Senate of Canada.

#### PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

**The Hon. the Speaker:** Honourable senators, I should like to introduce a visiting page from the House of Commons, Alex Telka, who is studying political science at the University of Ottawa's Faculty of Social Sciences. Alex is from Windsor, Ontario.

Welcome.

[Translation]

## ROUTINE PROCEEDINGS

### HUMAN RIGHTS TRIBUNAL

#### 2003 ANNUAL REPORT TABLED

**The Hon. the Speaker:** Honourable senators, I have the honour to table the 2003 annual report of the Canadian Human Rights Tribunal entitled: "Provide Canadians with an assurance of equal access to the opportunities that exist in our society through the fair-minded and equitable interpretation of the Canadian Human Rights Act and the Employment Equity Act, in accordance with section 61(3) of the Canadian Human Rights Act."

• (1350)

[English]

### INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

#### SIXTH REPORT OF COMMITTEE TABLED

**Hon. Lise Bacon:** Honourable senators, I have the honour to table the sixth report of the Standing Committee on Internal Economy, Budgets and Administration regarding the Senate's administrative rules.

I ask that it be placed on the Orders of the Day for consideration at the next sitting of the Senate.

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Bacon, report replaced on the Orders of the Day for consideration at the next sitting of the Senate.

### AGRICULTURE AND FORESTRY

#### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE

**Hon. Donald H. Oliver:** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(i), I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Agriculture and Forestry be empowered, in accordance with rule 95(3), to sit between Monday, April 5, 2004 and Thursday, April 8, 2004 inclusive, even though the Senate may be adjourned for a period exceeding one week.



NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO  
TABLE REPORT DURING ADJOURNMENT OF THE  
SENATE

**Hon. Donald H. Oliver:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Agriculture and Forestry be permitted, notwithstanding usual practices, to deposit an interim report with the Clerk of the Senate between Monday, April 5, 2004 and Friday, April 16, 2004 inclusive, should the Senate not then be sitting; and that the report be deemed to have been tabled in the chamber.

## QUESTION PERIOD

### HUMAN RIGHTS

STATUS OF STUDY ON 2002 BERLIN RESOLUTION OF  
ORGANIZATION FOR SECURITY AND CO-OPERATION  
IN EUROPE PARLIAMENTARY ASSEMBLY

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, my question is directed to the Chair of the Standing Senate Committee on Human Rights. Can she advise as to the status of the committee's study under the order of reference given by the Senate dealing with the anti-Semitism resolution of the Parliamentary Assembly of the OSCE? Given the terrible events of the recent past in our own country and the fact that there may be a dissolution of Parliament and a general election, the matter is somewhat time sensitive.

**Hon. Shirley Maheu:** Honourable senators, witnesses have been scheduled to appear before the committee on the first Monday after our break.

### SOLICITOR GENERAL

AUDITOR GENERAL'S REPORT—  
CANADIAN SECURITY INTELLIGENCE SERVICE—  
NATIONAL SECURITY ASSESSMENT CENTRE—  
INVOLVEMENT OF AGENCIES

**Hon. Michael A. Meighen:** Honourable senators, now that 24 hours have passed since the tabling of the Auditor General's report, I assume that the Leader of the Government in the Senate has had an opportunity to glance at it, and I will ask him the same questions I asked yesterday. Can he tell us what is being done, if anything, to ensure that the various government departments participate in the Integrated National Security Assessment Centre?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I have been advised that full consultation is taking place among all the agencies. While some are not members of the agency, they have a working relationship and do participate in and contribute to the work.

**Senator Meighen:** Honourable senators, the information communicated to us through the report of the Auditor General is that 10 agencies were invited to send representatives and four declined, including the Departments of Foreign Affairs, Citizenship and Immigration, the Solicitor General and the Privy Council. Is it the position of the Leader of the Government in the Senate that these invitations were given simply on a "come if you want" basis, not really to be taken seriously, or is the full participation of the 10 invited agencies important to the good working of the Integrated National Security Assessment Centre?

**Senator Austin:** Honourable senators, to add to my last answer, we are speaking about the Integrated National Security Assessment Centre that was created in February 2003 to enhance the capability of CSIS to inform the Government of Canada regarding threats to national security. INSAC provides the government with those enhanced warning capabilities. It produces assessments that are used by the Government of Canada to warn provincial and territorial partners of current threats in an effort to sharpen anticipatory and response reflexes at local levels.

The Auditor General's report incorrectly states that the former Department of the Solicitor General has not assigned a specific representative. In fact, a representative has been assigned from the department's National Security Directorate, and departmental officials are fully engaged in all functions and work initiated by the centre, although they may not have a physical presence at the centre.

**Senator Meighen:** If I understand the Leader of the Government in the Senate correctly, that takes care of the Department of the Solicitor General. What about the Privy Council Office, the Department of Foreign Affairs and the Department of Citizenship and Immigration?

**Senator Austin:** Honourable senators, they are all-pervasive.

**Senator Meighen:** Could the minister elaborate?

**Senator Austin:** Anyone familiar with the Government of Canada knows that the Privy Council Office is all-pervasive.

**Senator Meighen:** Ten years ago, when I was in that office, I do not think it was.

**Senator Austin:** Honourable senators, that is not what I heard from the then chief of staff to Prime Minister Mulroney. In any event, I know that the Mulroney government went through various phases of control of the Prime Minister's Office.

Coming back to the specific question, these departments are engaged in the work and are contributors to the overall analytical assessment.

## PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

AUDITOR GENERAL'S REPORT—OFFICE OF CRITICAL  
INFRASTRUCTURE PROTECTION AND EMERGENCY  
PREPAREDNESS—ACCESS TO TOP SECRET  
MESSAGING SYSTEM

**Hon. Michael A. Meighen:** Finally, honourable senators, I have a question for the Leader of the Government in the Senate on the issue of lessons learned. I have just come from a committee where I learned that it appears that we do not have a bank of lessons learned, that when we go through various experiences, be they national disasters or other major events, we do not write down and communicate the lessons learned.

The Auditor General described as critical the cooperation among agencies in responding to crises. Her report pointed out that the Office of Critical Infrastructure Protection and Emergency Preparedness has only limited access to the government's top secret messaging system, and we saw how well that worked last summer during the blackout. Can the Leader of the Government in the Senate confirm whether this limited access is still the case and, if so, why?

• (1400)

**Hon. Jack Austin (Leader of the Government):** Honourable senators, there are always lessons to be learned. As the Honourable Senator Meighen knows, this government and the Chrétien government have invested a considerable amount of money in security. Prior to Prime Minister Paul Martin becoming prime minister, the government under Prime Minister Chrétien invested \$7.7 billion in new security measures. The budget that was brought down last week provides for another substantial sum of money in security matters.

It takes time to coordinate bureaucratic agencies and to line them up on new missions. There are gaps. Anyone who does not think so does not understand organization. However, the Auditor General's suggestions in respect of Senator Meighen's question are very helpful.

**Senator Meighen:** Honourable senators, I realize that perfection is, perhaps, beyond our grasp, but surely we could get to an adequate level of cooperation and coordination.

**Senator Austin:** We are working towards that objective.

## SOLICITOR GENERAL

AUDITOR GENERAL'S REPORT—  
CANADIAN SECURITY INTELLIGENCE SERVICE—  
NATIONAL SECURITY ASSESSMENT CENTRE—  
INVOLVEMENT OF AGENCIES

**Hon. J. Michael Forrestall:** Honourable senators, I hesitate to ask any questions because we will get the same thing that we got yesterday. Perhaps I should invite the Leader of the Government in the Senate to read the proceedings of the Standing Senate Committee on National Security and Defence, so that he will have an idea of what is going on in this country.

Canada is not able to meet, to cope with or to repel any kind of meaningful incursion against it by terrorists or external armed forces. I am wondering why it took six or eight months to decide that a committee should study this issue. I am wondering why we are coming up to the third anniversary of 9/11 but have not yet got our act together. The fact that Secretary Ridge in the United States does not have his act together is not an excuse for Canada not to have its act together.

I do not find this matter to be a humorous topic. I am wondering why the honourable senator is posing with a grin on his face.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I have an answer for the honourable senator.

**Senator Forrestall:** I am sure the leader does.

In her most recent report, the Auditor General noted — I will carry on from Senator Meighen — that the government as a whole failed to adequately assess intelligence lessons learned from the September 11, 2001, terrorist attacks in the United States. As I have indicated, most of us find this to be rather startling.

More shocking, however, is the Auditor General's finding that when the Interdepartmental Committee on Security and Intelligence proposed a meeting of heads of agencies to discuss the response to September 11, as Senator Meighen has indicated, the RCMP, CSIS, and Finance Canada did not attend.

Would the Leader of the Government in the Senate explain why these agencies, including the man who was the head of Finance at the time, currently the Prime Minister, did not ensure that these agencies were well represented at those meetings?

**Senator Austin:** Honourable senators, in response to the first part of Senator Forrestall's question, I recall that, as Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament two or three years ago, I placed before that committee a recommendation that two new committees of this chamber be created — the Standing Senate Committee on National Security and Defence and the Standing Senate Committee on Human Rights.

There was some discussion and a considerable delay as members of Senator Forrestall's side considered whether they could properly support the creation of two new committees. Eventually, somehow, agreement was obtained from the opposition with respect to the formation of those committees, which had been eagerly sought for a long time by this side.

I think all honourable senators would agree that, in establishing the Standing Senate Committee on National Security and Defence, we did a good thing. The work of that committee has been outstanding and, as such, has raised dramatically the credibility of this chamber.

**Some Hon. Senators:** Hear, hear!



**Senator Austin:** It is part of our role, of course, to point to matters of public policy that could be improved — and that committee has done that. It is not its job to always accommodate the government. I can assure honourable senators that the government does not always feel accommodated by the Standing Senate Committee on National Security and Defence.

By having said that, I have in part responded to the honourable senator's question. The Government of Canada is happy to have the report of the Auditor General with respect to national security, and happy to have the Auditor General's comments, because they come on the basis of a very useful consideration. However, at the same time, it must be appreciated that the government has moved very quickly in the security field. I mentioned the expenditure of over \$7.7 billion in the last three years in this area and the new money in the existing budget.

One can point to areas addressed by the Auditor General, such as the need for more integrated analysis and more dialogue is required. That is accepted. There are, however, statements of fact here and they may not exactly reflect current practice. I mentioned one of those to Senator Meighen.

**Senator Forrestall:** The government leader seems to miss the point. The work of the committee is not to enhance the reputation of the chamber; the purpose of the committee's work is to enhance the safety of Canadians from one end of this country to the other.

In almost three years, we still have no firm understanding of how we are to control our ports and our extensive seacoast. Our airports are shockingly underprotected. An individual cannot get in the front door, but he or she can walk in the back door. It is the same in the United States and on the Great Lakes. In every respect, we are falling further and further behind. In spite of the money Canada has spent, Canadians cannot see falling into place those mechanisms and that capacity that would allow them to rest a bit more comfortably.

Following the terrorist incident in Madrid, Spain, I would suggest to the Leader of the Government in the Senate that there is a far greater urgency among Canadians than has existed for the past two years.

## PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

### REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE—IMPLEMENTATION OF RECOMMENDATIONS

**Hon. J. Michael Forrestall:** Honourable senators, could the Leader of the Government in the Senate give some indication of when the government might take a look at the report that the Standing Senate Committee on National Security and Defence tabled yesterday, as well as the two reports that preceded it? When will the government give some indication as to why some of the first-class recommendations in that report have not been implemented?

I am not talking about using some of that \$3 million to replace Sea Kings. I am talking about putting in place something that allows us to say that if we are to live by intelligence, let us make certain that that intelligence is accurate and reflects the nature of the problem.

• (1410)

**Hon. Jack Austin (Leader of the Government):** Honourable senators, of course I agree with Senator Forrestall that, by enhancing the safety and security of Canadians through its work, the Standing Senate Committee on National Security and Defence raises the regard in which this chamber is held by Canadians. I think we all agree on that point.

I should like to give a substantive answer to Senator Forrestall's question. It should be appreciated that the bulk of the work done by the Auditor General and reported yesterday was performed prior to major organizational changes that the government announced shortly after it took office.

I should like to refer to some of those changes. First, the government established the portfolio of Public Safety and Emergency Preparedness, which brings together the core functions of crime prevention, policing and enforcement, security and intelligence, corrections, border services and integrity, and emergency management. With this pooling of resources and capabilities under one minister, the government can operate more effectively and strategically to protect Canadians.

Second, the Prime Minister established a cabinet committee on security, public health and emergencies. This new committee is the manager of national security and intelligence issues and activities. It coordinates government-wide responses to emergencies.

Third, the government announced its intention to develop and implement Canada's first comprehensive national security policy. That policy is intended to set out Canada's national security interests and set a blueprint for protecting Canadians against current and emerging threats.

Finally, as the Auditor General asserts in her report:

The new position of National Security Advisor to the Prime Minister...will co-ordinate integrated threat assessments, help strengthen interagency co-operation, and assist in the development of an integrated policy framework for national security and emergencies.

As I suggested in an earlier answer, on March 23, 2004, the government announced a further investment of \$605 million over the next five years for priorities such as intelligence, border protection, marine and cyber security, and an enhanced coordination of systems, information, threat assessments and emergency response.

The government takes the question of national security and its obligation to protect Canadian citizens extremely seriously.

# PARLIAMENTARY OVERSIGHT COMMITTEE ON NATIONAL SECURITY

**Hon. J. Michael Forrestall:** Honourable senators, shortly before Christmas there was an indication from the Prime Minister that it might be useful to look at advantages that might flow from the establishment of an oversight committee, or perhaps two such committees, one in each chamber, or a joint oversight committee whose responsibility would be to look at information that is not accessible to us so that we might better reflect the pace at which we are proceeding toward a more secure Canada.

Three or four weeks ago we were privileged to receive a communication from Minister McLellan in which she expressed her views on this idea and invited the views of members of this chamber and, I presume, the other chamber. Could the Leader of the Government in the Senate indicate whether or not anything further has been done in this regard?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, the last report I had from Senator Kenny was that he and other members of the committee were meeting with their opposite members in the other place. I have received advice from Senator Kenny that the committees of both Houses are setting up the criteria for their respective studies. It would appear from the budget that has been put in front of me that the committee believes it needs a view of the practices of parliamentary oversight committees in other jurisdictions, in particular in the United Kingdom, New Zealand and Australia. If that is their conclusion, I am sure it will be supported. However, that would suggest that a report of this committee would not be available to the Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness for three or four months.

However, I would tell the chamber what every one of us knows, that is, this is a very meaningful policy. It is a policy departure to ask parliamentarians to act as a secure oversight committee. I believe it is a desirable policy. From what I have seen thus far, that seems to be the conclusion of the members of the committees being consulted.

## TRANSPORT

### SECURITY OF PORTS AND AIRPORTS

**Hon. Gerry St. Germain:** Honourable senators, my question is addressed to the Leader of the Government in the Senate.

The minister makes reference to Senator Kenny's committee, its members and the excellent work they have done. We know from the reports of the committee and from others — something that was reinforced in the Auditor General's report — that organized crime and motorcycle gangs have infiltrated the operations of the Vancouver Port Authority as well as the airport.

It was months ago that Senator Kenny reported this. It was not accommodating to the government. This is not about accommodating the government; it is about the safety of all Canadians. I can cite as an example for all senators a situation at the Port of Vancouver where a development was anticipated and people backed off because of threats by organized crime.

What tangible steps has the government taken as a result of the excellent work that senators have done and as a result of the recent information of the Auditor General? What has the government done to change the situation in our port authorities across this country and now, obviously, at our airports?

I understand this is sensitive because of the nature of police work. However, I think Canadians should get some comfort from the leadership of this country as to exactly what is happening.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I wish to thank the Honourable Senator St. Germain for his question.

I can advise the chamber that the Minister of Transport has authorized a file-by-file review of 131,000 employees who are involved in ports and airports and who have access to Canada's other facilities.

The question of organized crime in the ports was pointed out by our own standing committee. It alerted Canadians to an issue of real concern. As Senator St. Germain knows, the issue has two aspects, internal or domestic crime, as well as external crime, terrorism.

As a part of the study, it is also important that individual Canadians not be subjected to a witch hunt. Someone who may have committed a crime and is now an honest citizen working in an honest job does not deserve to be stigmatized. I am not suggesting that Senator St. Germain said that that person should be subjected to a witch hunt or stigmatized. It will take time to get balance into the task, and it needs to be assessed. However, it needs to be done and it is being undertaken.

• (1420)

## PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

### AUDITOR GENERAL'S REPORT—BORDER CONTROL WATCH LISTS—EFFICACY OF AUTOMATED SYSTEM FOR FINGER AND PALM PRINTS

**Hon. Donald H. Oliver:** Honourable senators, my supplementary question is about national security as well, and is addressed to the Leader of the Government in the Senate.

The Auditor General's report was especially critical of what is called "border control watch lists." These are lists used by various government departments and agencies overseeing Canada's border entry points. Among the egregious gaps and errors, she found that 25,000 Canadian passports that are lost or stolen each year do not appear on border control watch lists.

Can the Leader of the Government in the Senate explain why these missing passports are not included in border control watch lists, and what is being done to rectify this situation?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, all I can report on that subject at this time is that the situation is being treated as a matter of urgency. I shall not be able to report until I receive further information as to what steps are being taken.



**Senator Oliver:** Honourable senators, as a further supplementary, the Auditor General makes reference to Live Scan, an automated system for taking fingerprints and palm prints. She notes that Live Scan was seen as a major initiative for fighting terrorism and increasing security at ports of entry to Canada. However, it seems to be nothing of the sort.

The agreed-upon turnaround time for processing fingerprints is still six to eight weeks, the same as it was before. Moreover, there is an increasing backlog of work that the Auditor General estimates will take over two and a half months to clear. The cost of Live Scan is \$238 million.

Can the Leader of the Government in the Senate explain why Live Scan was approved when, as the Auditor General states, "the poor business case was made for it in the first place"?

**Senator Austin:** Honourable senators, there is a fingerprint backlog and a solution is being sought.

**Senator Stratton:** That is your answer to everything.

**Senator Austin:** The Minister of Public Security made an address in which she referred to Live Scan equipment, which is in use by the RCMP, CBSA and Transport Canada. It has been very helpful. However, what is lacking, as Senator Oliver indicates, is real time identification — which is a problem that is being worked on.

## HEALTH

### AUDITOR GENERAL'S REPORT— MEDICAL DEVICES PROGRAM

**Hon. Marjory LeBreton:** Honourable senators, I, too, should like to ask the Leader of the Government in the Senate a question on the Auditor General's report, as I asked yesterday.

With the Auditor General being so current in the news, I would hope that someone in the government leader's office has now briefed him on this latest report.

My question was with regard to a health matter. The Auditor General's report outlines serious problems found with Health Canada's medical devices program, which regulates everything from MRI and ultrasound equipment to pacemakers and defibrillators. The Auditor General found that, in its current form, this program is not sustainable and is in need of adequate human financial resources or a complete redesign.

The audit stated that, in 1992, a medical devices review committee found that Health Canada did not have enough resources at that time, and recommended an increase. Since then, budget cuts and problems in setting fees have meant the funds going to the program are less than they were in 1992.

Why did the government not follow through with the committee's recommendations made 12 years ago, and why has it allowed this program to become so seriously understaffed and underfunded?

While I am on my feet, I will also ask the question, as I did yesterday, as to whether this program will be receiving any attention when the first ministers meet with the, perhaps, new Prime Minister — and you then, therefore, cannot answer that question — in August or July of this year?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, since Senator LeBreton asked the question with respect to the first ministers meeting, I can only give her the same response as I gave yesterday, which is that I will forward her suggestion to the Prime Minister's Office.

With respect to medical devices, I can tell the honourable senator that Health Canada advises that it accepts the findings and recommendations of the report of the Auditor General and, as such, intends to move to improve its regulatory program for medical devices.

## ORDERS OF THE DAY

### BUSINESS OF THE SENATE

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, earlier today we gave a very warm welcome to the Rwandans in the gallery. I wish to bring to the attention of the chamber that Senator Jaffer has a motion on the Order Paper dealing with Rwanda. As such, honourable senators, could we get consent to interrupt proceedings at 3:30 p.m. and move directly to Senator Jaffer's motion at that time?

**Some Hon. Senators:** Agreed.

**The Hon. the Speaker:** I wish to draw to honourable senators attention that we have a letter from Her Excellency that she will be here at 3:45 p.m.

I know from my discussions with the Table that there will be a request that we suspend to await her arrival so that the television cameras can be warmed up. There is a very short period of time available there. I simply draw that to your attention.

**Hon. Anne C. Cools:** Honourable senators, I have a particular issue with the question at hand. I am prepared to give leave to let it come forward, but is it the deputy leader's intention that the question be put? It is my intention to take the adjournment on that question, because it is the first debate we have had on the issue and I think it should proceed with more than just an undebated motion.

Could someone reveal the plan to me?

**Senator Rompkey:** Honourable senators, it would be like any other motion on the Order Paper; it would be open to debate. I am sure we would welcome contributions from both sides of the chamber.

**Senator Cools:** Why must we bring it forward, then?

**Senator LeBreton:** Because there are guests in the gallery.

**The Hon. the Speaker:** Obviously it is because we have guests from Rwanda here and we would like to deal with it at that time.

**Senator Cools:** I am prepared to give leave — I am making this quite clear. I am prepared to give leave to allow it to come forward so that Senator Jaffer can speak to it. I wish very much to speak to this issue; however, it is not possible to speak to it today. I intend to take the adjournment, to speak tomorrow or at another time.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Leave is granted. At 3:30 p.m., we will move to item No. 68 on our Order Paper, in the name of Senator Jaffer. We will have approximately 10 minutes at that point which, I hope, will be enough time. In any event, that is all the time that we will have.

## SEX OFFENDER INFORMATION REGISTRATION BILL

### THIRD READING--DEBATE SUSPENDED

**Hon. Landon Pearson** moved the third reading of Bill C-16, respecting the registration of information relating to sex offenders, to amend the Criminal Code and to make consequential amendments to other Acts.

She said: Honourable senators, it is my pleasure today to speak on third reading of Bill C-16, the proposed sex offender registration information act, and to ask you to support it.

We examined the bill carefully in committee, and I should like to use this opportunity to address some of the issues that were raised there.

First, let me clarify the purpose of this bill. Bill C-16 provides a new and hopefully useful tool to Canadian law enforcement in dealing with criminals convicted of sex offences. Over the last decade, we have seen a range of programs initiated across the country aimed at deterrence, investigation and prevention of repeat sex offending, all within the broader and fundamental goal of protecting children and the general public. For example, since 1994, a national screening system has been in operation, whereby employees and volunteers in positions of trust with children and other vulnerable groups can be screened using the databases maintained by the RCMP. Organizations that work with children can access criminal history information contained in the Canadian Police Information Centre (CPIC) database in order to determine whether prospective employees or volunteers have criminal offences in their background.

In recent years, we have also seen the establishment of community notification programs in most provinces. There are cases where offenders, having fully served their sentence in a federal penitentiary or provincial prison, emerge from the prison gate into society but still pose a degree of risk to the public. In these instances, provinces may consider a number of measures,

including applying for a peace bond or giving notice to neighbourhoods that certain offenders have been released. These are but two examples of preventive measures in relation to sex offenders and other serious offenders.

Where does this proposed national sex offender registry fit in the larger picture of sex offender controls?

• (1430)

In order to understand precisely what the Sex Offender Information Registration Act, SOIRA, does, I urge all senators to examine the bill closely. I am referring to its practical operation "on the street," if you will.

Honourable colleagues, Bill C-16 is designed as a new investigative tool for Canadian police forces. It is not a system for screening employees and employers. We already have a method of doing that. It is not a supervision or monitoring regime since probation, parole and peace bonds accomplish those goals.

When a sex crime occurs, the burden is upon the police to respond quickly. In addition to evidence that may be gathered at the scene of the offence, the investigating officer will make use of CPIC. As we know, CPIC provides extensive information on all persons convicted of criminal offences and it is available as a database to all police officers in Canada. These data searches take time, and time is often of the essence in these cases. The thinking behind the National Sex Offender Registry is to provide the investigating officer with access to a specific sex offender database that contains the most recent address of sex offenders living in the area of the crime.

The RCMP has already established a separate sex offender category within the broader CPIC data banks that, in effect, will allow investigators quicker access to the information they need, but we must ensure that the profile of the offenders in this database are kept up to date, and this is precisely what Bill C-16 does.

Clause 4 of the bill provides that a person convicted of certain offences must report to a registration centre within 15 days of being released from custody. This includes situations where the person has been released pending an appeal, or is on the street on parole, having served the custodial part of his sentence.

Clause 5 lays out the information that the individual must provide when he visits the registration centre. The most important piece of data in the system is the offender's current address. Offenders must provide their home address, any secondary address, and the address of the place where they are employed or attend school. This is critical information and I note that the bill goes on to require the individual to furnish an update whenever he or she moves to a new residence.

To complete the link between the offender providing this information and the new CPIC database, the bill provides for the designation of registration centres. In effect, this is likely to mean a police station, and the authorities entering the data into the CPIC system will be police officers. Thus, the connection is made between the obligation on the offender to provide accurate data and the police agencies that will be using the information.



Honourable senators, the sexual abuse of children and other vulnerable groups carries with it a particular harm and often deeply personal and devastating consequences. The trauma that children suffer as a result of sexual abuse may be immediately reflected in their emotional health. Indeed, adult survivors of sexual violence often suffer depression, poor self-esteem and substance abuse. It is precisely because of the devastating and lasting impact on their victims that sex offenders have been singled out. This is why the government decided to create a registry of sex offenders, as opposed to other groups of offenders. The offences designated include sexual exploitation, sexual interference, child pornography, incest, and various levels of sexual assault.

Honourable senators, I should like to underline that the development of Bill C-16 was a cooperative effort between federal and provincial governments. Provinces will be involved in the designation of registration sites, and in most instances it will be provincial or municipal police officers or RCMP officers operating under contract with the province who will enter the data into the new sex offender category database.

Of course, provincially administered police agencies will conduct the sex crime investigations and provincial prosecutors will handle both the initial prosecution of sex offences and the later prosecution of any breaches of the Sex Offender Information Registration Act. Bill C-16 sets up a consistent national system for sex offender registration and it thus avoids a patchwork of provincial systems but, at the same time, it respects the provincial role in the administration of the system.

In committee, members paid great attention to possible violations of the Charter of Rights and Freedoms. One issue raised was whether or not the retrospective inclusion of offenders in Bill C-16 would be a violation of the Charter.

Honourable senators, any section 11(h) Charter obligation — the right not to be tried or punished twice — would first have to establish that the registry was in fact punitive. The retrospective provisions in this bill are not a punishment, but were designed in a minimally intrusive manner and they are fully proportional to the purposes of the proposed legislation.

Consistent with the procedural safeguards already contained in Bill C-16, we have introduced a number of additional provisions to ensure the Charter rights of affected offenders are fully protected. For example, agreement was reached among the provinces to allow inclusion of all previously convicted offenders under sentence as of the date of the coming into force, provided such offenders are served with notice of the requirement to register and given the opportunity of having a judicial hearing. Bill C-16, as it now stands, reflects the agreement of all provinces and territories on this issue.

Another issue raised was whether or not provisions of the bill with respect to registration and relocation offended the Charter regarding mobility rights. There is no prohibition in Bill C-16 against an offender relocating to any location or jurisdiction. Bill C-16 attempts to ensure that relocation in itself does not lead

to a Charter challenge by minimizing the impact of relocation, that is, they have 15 days to notify police in a new jurisdiction, temporary relocations only require notification by mail, international travel requires no notice until 15 days after return to Canadian soil, and so on.

Finally, honourable colleagues, I will address another question that was raised in debate on this bill. Why does the registration of a sex offender require an order by the court? Why can they not be registered through an administrative procedure? As legislators, we have an obligation to respect the Charter of Rights and Freedoms, and there are certainly Charter values in play in this bill.

We examined the American experience with sex offender registries. The American courts have ruled that such registration has an impact on the rights of the individual offender. After all, we are targeting individuals who are serving a sentence for a criminal offence, and we as legislators must provide the justification for imposing additional obligations, namely, registration, on them. It is evident that Bill C-16, in establishing the procedure for adding someone to the national registry, was designed with an eye to due process. Note how and when the registration order is imposed.

When an offender is convicted and appears before the court for sentencing, the prosecutor makes an application to the sentencing judge for an order requiring the offender to register. The judge shall make this order, unless he or she concludes that the impact on the offender, including on their privacy or liberty, would be grossly disproportionate to the public interest in protecting society through the effective investigation of crimes of a sexual nature to be achieved by the registration of information relating to sex offenders.

In my view, the act includes sufficient due process for the individual while setting the proper benchmark for the court in deciding whether registration is appropriate, namely, the standard that I have just quoted. This is a national system, unlike the United States, which suffers the confusion of many different state level registration regimes. Bill C-16 sets out a common national approach both through federal enabling legislation and the nationally available CPIC system. This registry is well focused on the needs of the police, it is well balanced in terms of the due process and privacy rights of the individual, and it is built on federal-provincial consensus.

Honourable senators, I have always considered it a privilege to serve on the Standing Senate Committee on Legal and Constitutional Affairs. I have learned a great deal during the years that I have been a member. I have developed enormous respect for my committee colleagues — not the least of which is Senator Beaudoin, who will be greatly missed — and for their collective knowledge and experience. Every bill that comes before us receives intense scrutiny from a whole variety of perspectives. Bill C-16 has come back to you without amendment. However, the transcripts of our meetings will indicate that among the

concerns raised was the concern that the tool created by the passage of this bill will be evaluated for its effectiveness within a reasonable time. Since the bill requires a parliamentary review in two years, we will soon be able to look at what use it has been.

Reassured by this mandatory review, I now urge all senators to support Bill C-16.

• (1440)

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Would the honourable senator take a question for clarification?

**Senator Pearson:** Certainly.

**Senator Kinsella:** Honourable senators, we are fortunate to have in Senator Pearson one of the leading Canadians in the area of children's rights. Given her tremendous knowledge of the United Nations Convention on the Rights of the Child, could she share with us the committee's results as it filtered the bill through that convention?

**Senator Pearson:** I feel that the bill enhances the protection of children. The reason I mention the mandatory review is because I always like to see, from a practical perspective, whether a bill does what it says it will do or what the police think it will do. If it does and if we are able to protect or rapidly find the molester or killer of even one child, we will have achieved something of great importance.

I know there are costs involved in this kind of registration. We were assured that in fact the provinces will be picking it up because partly it was the provinces that really wanted to have this done. In addition, the two-year review was an important concept.

The question of a conflict of rights would arise only if we get a case where one of the sex offenders is, in fact, a child. We know that under the Youth Criminal Justice Act there are crimes of sexual assault and there will be some young people who will have been convicted. That whole regime will follow the same regime as any other thing that has to do with the Youth Criminal Justice Act. That was one of the questions that I posed in committee. I was satisfied with the answer, but I am very glad the honourable senator asked the question.

**Hon. Gérard-A. Beaudoin:** Honourable senators, my question is on the Charter. Senator Pearson referred to the Charter of Rights and Freedoms and to the criterion of proportionality. I could not agree with her more, but there is one thing that worries me a little bit, and that is the presumption of innocence. I am not too satisfied with the fact that the name of the person is in the registry and that person has the burden of evidence, because it is up to the Crown to prove beyond a reasonable doubt that someone is guilty of a crime. Now the burden of evidence is on the person who is in the registry. This is a debatable subject, of course, but I would like my honourable friend's opinion. I am uncertain whether the presumption of innocence is violated.

**Senator Pearson:** This is an important question, and I remember the honourable senator raising it in committee as well. As I read the legislation, my understanding is that since the order to become

part of the registry only comes after the individual has been sentenced and therefore has been found guilty, then I am not sure that the presumption of innocence comes into play. This is not a punishment. It is an administrative order for them to have their names placed on the registry. We know that, for example, the Canadian Police Information Centre, CPIC, already has a lot of offenders on the registry. I do not know whether the same question would arise with them. Within the bill, there is the possibility that an offender can apply for a judicial review and have his or her name — there are not many "hers," but there always are some — removed from the registry.

I do not have the same concern expressed by Senator Beaudoin, but he is the expert. I am hoping that, as we review the legislation, if this question comes up again, neither he nor I will be here, but we will make sure someone else asks the question.

**Senator Beaudoin:** Senator Pearson has more experience than I do in this field. For example, if a child is involved, the burden of evidence is on the person.

I am very pleased with the system we have in place whereby the Crown must prove that someone is guilty beyond a reasonable doubt.

Is the mere fact that a person's name is already in the registry book an indication that they have two strikes against them and that the presumption of innocence must be displaced? Probably, under section 1, it is acceptable in a free and democratic society. If it is, the bill is perfect on this respect, but I have some doubts.

**Hon. Gerry St. Germain:** Honourable senators, my question is to Senator Pearson. She said that that there is a review and evaluation period of two years. Certain police forces are telling me that the provisions of this bill are unenforceable the way the bill is written. They hope they are wrong. Is there any possibility that if it is unenforceable before the two-year evaluation, the system could act to remedy this shortfall?

**Senator Pearson:** When this question arose before, I never did quite get the answer from the police as to why they think the provisions are unenforceable. I do not know, really, what they meant because so many of the other police were asking us for a registry and thought it would be useful, so perhaps my colleague could explain to me why they thought it would be unenforceable.

In terms of changing the legislation, two years is not a very long time. I would think we would need to give at least two years for anything to run out before we could figure out what really needed changing. We would then have a very strong case for change. I do not think it would happen in that case. I do not think we would do it before. I never understood why some people would have brought this concern to the honourable senator about why the provisions would be unenforceable. If it has been ordered, I presume it is enforceable.

**Senator St. Germain:** I will try to cover this area of concern in my speech later.



**Hon. Anne C. Cools:** Honourable senators, I have two questions. The first follows on Senator Beaudoin's question in respect of the presumption of innocence of offenders in future offences. It is a presumption that seems to have been altered.

The bill has a clause in it that does the same sort of thing in respect of pardons. The bill amends the Criminal Records Act in respect to pardons, to apparently leave some elements intact. The notion of a pardon under this act is a different pardon from those under the Governor General's Royal Prerogative of Mercy.

If the notion of a pardon under the Criminal Records Act is a vacation of the offence, how on earth can any clause in this bill propose to "unvacate" the offence to set up new conditions of the Criminal Records Act? I do not understand it. I was given an explanation in committee, but it made no sense. Perhaps the honourable senator can help me.

**Senator Pearson:** I am not sure that I can help because I am a bit puzzled myself. I am not sure whether the officials answered the question. I understood there to be a full pardon as opposed to the other kind of pardon. It seemed to me that there were two.

• (1450)

**Senator Cools:** It was a few weeks ago, but I believe they treated it in the same way, and the previous answer is what triggered my memory. When my honourable friend responded to Senator Beaudoin, she talked about the officials describing this as an administrative matter. I am not sure now. I would have to look it up, but I believe that they said this was not an attempt to limit the power of the pardon or the consequences of the pardon. It would be an administrative element, a detail carried forward, something like how parole is granted with conditions, such as abstaining from alcohol. I do remember that committee members were a little puzzled, and for some reason we did not get back to it. I did not get to it and have not thought of it since. If the honourable senator is not clear, I understand.

**Senator Pearson:** This point is tied to the other question that was raised, the question of the onus of the offender to rebut a presumption. This bill places on the offender the onus to rebut the presumption of registration as being unconstitutional.

I understand from the bill that the important distinction here is that there is no finding of guilt. At trial, the Crown has the full burden to prove the charge beyond a reasonable doubt. That disposition would already been made before the application. This particular application is the application for the person to register. It occurs after the finding of guilt and after the sentence has been imposed; so, strictly speaking, it is not part of the sentence. By design, it is an administrative consequence of the conviction and is proportional to the objects of the legislation.

I understood — I am sure this is true — that the police told us that one of the good things about the proposed system is that it would rapidly eliminate a number of people who might otherwise be under suspicion. Perhaps they probably thought that the benefit for those who had registered would probably outweigh the disadvantage.

**Senator Cools:** What the honourable senator has been struggling with is difficult. It is a very difficult subject. I wanted to show as well that it is time for Parliament to take a good look at major acts like the Parole Act, the Criminal Records Act and major bills that deal with the treatment of inmates post-sentencing, parole and remission.

I think we asked this next question many times in committee: How was this group of offenders chosen to be the subject of an offender registry? I have read a lot of these cases. I could say that there are many violent offenders or robbers out there in the community — who could be part of a registry, especially those offenders who commit more than one murder. Remember that a homicide quite often can pass in court as manslaughter. It is very complicated. Can the honourable senator give us some insight as to the rationale for an offender registry for this set of offences alone and not for any others? Why was this set of offences chosen for an offender registry and not the others? I could easily choose several, I suppose.

**Senator Pearson:** In my speech, I spoke to the particularly terrible effects of sexual assault on children and other vulnerable peoples. Sexual assault is of a different order from all the experiences I have had working with young people who are exploited in the sex trade. There is a whole different order of impact. I suppose there is no difference in impact one way or another if someone is murdered, but it is if that person is assaulted.

The purpose of this legislation is to state clearly to society that sex offences, particularly against vulnerable children and other vulnerable people, are heinous and have a qualitatively different order of impact on their victims. We know that there has been a good deal of public interest in it. We must respond to public concern and do so in a way that does not violate the Charter but still enables us to keep track of what is going on. I am concerned that this kind of crime has been increasing rather than decreasing.

**Senator Cools:** I would like to thank the honourable senator for what she just said, particularly in respect to the new deviances that seem to be increasing in these areas. I also wish to underscore the thought previously expressed by myself a few minutes ago that it is time for this chamber, for Parliament, to take a good look at sex offences, sex offenders and their treatment possibilities. It is a difficult subject matter.

**Hon. A. Raynell Andreychuk:** Honourable senators, given Senator Pearson's experiences, I have a practical question to ask.

The Canadian Bar Association indicated in their brief — and I am phrasing, so I apologize if I do not say it quite in the manner that they did — that there is great reliance on this registry and that people will think that we have solved the problem of repeated sexual offences. They cautioned that the comfort level of relying on the registry will deflect attention away from doing the other things that should be done.

The Canadian Bar Association pointed out very strongly that sexual offences involving children are generally perpetrated by a family member or someone acquainted with the child. It is not a question of identity. There may be all those problems of putting a child through testifying or fear of pointing the finger at someone. Therefore, they said that the registry was of limited use. They referred to statistics from Massachusetts, where people are beginning to awaken to the limited use of this registry. How should the government present this to the public? How do we ensure that other tools are available to work with sexual offenders, to work with those who could be vulnerable, and not to simply say that we have a registry of sexual offenders. This is what appears to have happened over the last number of years. We have a debate between those who say we should have a registry and those who say we should not. I rather like the Canadian Bar Association saying that the registry was of some benefit but it was a limited benefit. How do we actually start working on the real problems?

**Senator Pearson:** That is an issue on which I spend a lot of time. The committee had the opportunity to work on a number of pieces of legislation that have increased the protection of children, such as the exploitation of children on the Internet. There is another bill coming soon, I hope, another protection for children.

As legislators, there is a limited amount that we can do. I take the Canadian Bar Association's comments seriously. Mind you, if the police know that someone in a child's family has been a sex offender and they can eliminate him or her quickly, that is to that person's advantage. I do not think the fact that the offender is not always a stranger, or rarely a stranger, makes the registry more or less useful. An offender is someone who should be known to the police when they are trying to solve a case, especially if that person is related to the child.

• (1500)

The other kind of work is the work on which we need to be expending much more effort, that is, reducing the number of sex offenders. The new provision in the Youth Criminal Justice Act, where a young person who has committed a particularly bad crime will be able to get specialized psychological help as part of his or her sentence, may help to transform some of those who might go on as adults to become sex offenders. The other thing we know is that it is within the family that sex offenders are created, to some extent, as well as found. Therefore, we must work strongly with families to make it very clear that this is totally unacceptable behaviour and that the child is a person with a right to be protected from this kind of thing.

**Senator St. Germain:** Honourable senators, I rise as well today to speak on Bill C-16.

I should like to start today by informing honourable senators that some of us believe that this bill was not conceived necessarily in the House of Commons. It derived from the Ontario legislature, from the efforts of Jim and Ann Stephenson, whose

son Christopher was murdered by a sex offender. Many years have gone by, and Mr. and Ms. Stephenson have lobbied the Ontario government successfully enough to get legislation in place. From there, a member of Parliament, Randy White, took over and wrote the legislation, which was tabled as Bill C-333 on April 4, 2001.

Thanks to the efforts of Randy White and many other people, the government was convinced that there had to be a registry — and, thank goodness, it is here today.

Let me speak a bit about the area that Randy White is from. For some odd reason, honourable senators, it has witnessed some of the most horrific crimes with regard to children. When I was in the House of Commons, Clifford Robert Olson was arrested in my constituency. He killed 13 children, sexually abused them and literally crucified them. They were horrific crimes.

This perpetrator had the audacity to write me letters when I was a member of Parliament, making reference to the fact that I was an advocate of capital punishment and that I had lost and he had won.

It hits a bit deeper that these horrific crimes against children have been so prevalent in British Columbia.

Honourable senators, consider the rash of murders of women from the east end of Vancouver — and we do not yet know how many have been murdered. A neighbour of the accused — I knew this neighbour because I had my businesses in Port Coquitlam said to me, "Gerry, if there is one, there could be 150."

As a former police officer, having spent four years as a police officer in Central Canada and one on West Coast, I can tell honourable senators that there is a need for this type of legislation. I compliment the government, and hope that all of us here can bring this proposed legislation to a reality.

Honourable senators, Canadians were hoping that the committee would spend the time necessary to ensure that the necessary changes were made to make this bill a better statutory device, and that these amendments would be reported back to the Senate. For some odd reason, that has not been the case completely — but I am not here to be critical. Better half a loaf than no loaf. It is my intention to be constructive, as opposed to obstructive, with respect to this bill.

Honourable senators, there are pros and cons to this proposed legislation. It is the cons that I will speak to right now. We still have time as lawmakers to make it better, if we so desire.

Honourable senators, Conservatives have long advocated for a national sex offender registry. After the 1988 murder of an 11-year-old by a convicted pedophile on a statutory release, the coroner's jury recommended the creation of a national registry for sex offenders. Because the federal government refused to act at the time, the official opposition moved, on March 13, 2001, a supply day motion, and it was passed unanimously, decreeing a national sex offender registry by January 30, 2002. The motion read as follows:



That the government establish a national sex offender registry by January 30, 2002.

Even though the Liberal government voted for the motion, they failed to implement the registry within the time frame specified.

On April 4, 2001, Randy White, the Member of Parliament for Langley-Abbotsford, introduced Bill C-333, which I referred to earlier, to create a national sex offender registry using the current Ontario registry as a model.

On February 5, 2002, the official opposition again introduced the motion to create a national sex offender registry. Since the original deadline had passed, the government used its majority to defeat that particular motion. After much pressure from the opposition, parents, police forces, and provincial and territorial governments the government finally succumbed to doing what was right, and I congratulate them today.

On February 13, 2002, the Solicitor General introduced Bill C-23, to create a sex offender registry.

However, the bill had numerous flaws. It would not be retroactive to include the names of all sex offenders currently serving sentences. On May 31, 2002, Mr. White's Bill C-333 was defeated. Then, in October 2003, at the request of the official opposition, the government brought in amendments to make Bill C-23 retroactive — a good, positive move. While there were remaining reservations for other areas of the bill that could have been fixed, the current Bill C-16 was passed with a unanimous vote in the other place.

Honourable senators, this brings me to my comments on the remaining areas of concern that I and others have with the bill. As I say, nothing is perfect; better something than nothing.

Honourable senators, as I pointed out, as someone who served as a police officer for five years in two different police forces in two different regions of this country, I must say that this legislation is long overdue. As a former police officer, I can honestly say that, in the case of young children, there is no more empty feeling in the world than going to a murder scene or a scene where a child has been abused. The emptiness is there because, as a human being, you want to get something done quickly.

If the police in the Brampton case had had this kind of tool, they would have had a chance, as the child had been held for two days.

I want to cite to honourable senators the example of a case I was involved in as a police officer in the centre of the nation. I was dispatched one afternoon with another constable, one who had served in Korea, incidentally. We were dispatched to a domestic call. When we arrived at the house, we were informed of the problem by a young girl, the daughter in the house. A male came storming into the house; he happened to be in the military. He had been sexually assaulting his daughter on a continual basis from the time she was 10 until she was 12. We went to effect the arrest immediately.

• (1510)

We were told that this was a family matter. I do not want to go into great detail, but the consequence was that this man was very nearly released from custody. If we, the police officers who had been at the scene of the crime, had not insisted that we call in the magistrate and explain the situation to him, this man would have been released on his own recognizance. If this registry deals with any of that, this will be a giant step forward in protecting children.

Honourable senators, as we conclude debate at third reading, I would ask you to really dig deep and think of the children. They are the greatest victims in these types of crimes. Bill C-16 falls short of the mark in some areas and amendments will be necessary. I am flexible as to whether we amend the bill now or later. I wish to do something positive.

I will outline some of my concerns about Bill C-16. The Vancouver Chief of Police has expressed his concerns that the law as written is unenforceable. I have also heard that the Toronto Chief of Police shares this view. If I have the time, I will read some of the amendments that these people propose. I also hope to answer some of the questions asked by Senator Pearson.

The proposed legislation provides a loophole for sex offenders who can show that being added to the registry would cause them greater harm than the public good that would be served by them being on the list.

Many offenders will certainly make a case to be excluded from the registry pursuant to this exception. There is no doubt that judges across the country will allow offenders in certain cases to be exempted. Instead of having a sex offender automatically placed on the registry upon conviction, this bill would force the Crown to apply to the courts to have the offender added at the time of sentencing. In addition, offenders will also have the right to appeal a registration order. This is not felt to be acceptable.

Another concern that I raised at committee was that individuals in the military serving time in military penal institutions for these types of crimes were not included in the bill. There is a concern that, if offenders are to register, then every sex offender must register. A registered sex offender does not include military persons who have been convicted under the military judicial system. A registered sex offender registry does not include someone convicted under the Code of Military Discipline. If they are serving time for a sex offence, they are eligible and should be included in the RSO. Committee witnesses told us that the registry should include everyone who is sentenced. Honourable senators, this important group of offenders has been overlooked once again.

In 1998, our Standing Senate Committee on Legal and Constitutional Affairs was studying Bill C-3, dealing with DNA identification, the purpose of which was to establish a DNA identification bank. During committee deliberations, members raised this important flaw, following which the Solicitor General undertook that he would come forward with a new bill that would bring military offenders within the ambit of the DNA data bank.

Six years later we are establishing another registry and the government is doing something similar. This group of individuals should be taken into consideration now or in the near future.

There were several police concerns. One issue was that standards are too high to determine whether a person is to become a registered sex offender in the registry. This RCO requires that the Crown must apply to the court for a registration order to be made for a convicted sex offender. This must be done each and every time. The process needs to be corrected so that the RSO would be automatic at the sentencing stage.

The other place amended this bill to be retroactive. Thank goodness for that. As I mentioned earlier, without such amendments, persons such as Clifford Robert Olson might one day be able to freely walk the streets of our communities. I do not believe this should ever be allowed to happen.

Another technical issue that must be fully considered when the regulations are drawn concerns border security immigration, the simple movement of registered sex offenders within and without Canada.

Honourable senators, we must be concerned that the regulations are carefully drawn. Therefore, the process must include, at the very least, police forces from across the country, since they are the ones on the front line of enforcement.

I will highlight this point by posing the following questions: Where is border technology headed? How and when will we be able to better track registered sex offenders leaving Canada? Without this, we have no real means of enforcing parts of the bill. Would landing applicants be rejected if they had convictions for the offences similar to our designated list? If not, what is the process to get them on the list?

What about refugee applicants? Immigration needs to ask: "Are you a registered sex offender?" They may have been pardoned, but they would still be required to register, as is the case in this bill. Offenders who travel and commit offences are unlikely to inform us after the fact of where they were. This is a theoretical argument, and attempts to have this changed have failed. We would likely have to demonstrate with experience that this is a problem.

Honourable senators, one of the national police forces put forth suggested amendments that I will now address. This force undertook a detailed review of the bill after it passed third reading in the other place. They suggested that it is apparent that the proposed legislation could be improved to be more effective in both its purpose and administration. Potential amendments were put forward to enable a more effective registry rather than awaiting the review after two years.

The bill defines the purpose of the act to help police investigate crimes of a sexual nature. Notably absent in the purpose and subsequent clauses of the bill are provisions for the use of the registry as a means of preventing crimes. Specifically, there are

strict restrictions on the use of information without any provision to disclose information when it would be in the public interest to prevent crime.

As well, the bill requires registered sex offenders to report temporary absences from their main or secondary residences, which are in excess of 15 days and only within 15 days after departure. Both the number of days and the timing of the reporting are considered ineffective. Under these conditions, an offender would only have to be at his residence one day every two weeks to be compliant. Even if the 15-day time frame remains, the fact that an offender only has to report his absence within 15 days after is extremely problematic. For example, if an offender registered in Vancouver and travels to Toronto and commits one or more sexual assaults while there, it is highly unlikely he would return to Vancouver and report his presence in Toronto. Reporting in advance of the travel makes it far more likely that his presence in Toronto will be known. The deterrence value of the registry, whatever that may be to individual offenders, is there with advance reporting, but completely absent under the present rules.

Turning to the next subject, while elements of the bill require an offender to inform the registry of all the addresses he stayed at while out of the country, there is no authority for the collector or others administering the registry to inform the authorities in that country of the offender's presence unless those authorities are aware of our registry and call. This is highly unlikely. Therefore, the registry will be ineffective at prevention or in bringing to justice Canadians who commit sex offences while outside of Canada. This is inconsistent with Canada's stated positions in support of various UN conventions regarding the protection of women and children.

Another concern outlines that the bill requires the offender to provide all addresses or locations where he is employed. It does not require him to provide his duties or the name of the employer. For the stated purpose of the proposed act, there is a remarkable difference in opportunity and, therefore, potential for being included as a person of self-interest in an investigation, between a person employed at 123 Main Street as a bookkeeper for Loomis Courier Service and a person working at the same location for the same company as the delivery driver. In both cases, the offender meets his obligation by reporting his work address as 123 Main Street.

• (1520)

As I mentioned earlier, honourable senators, the bill fails to consider individuals who may have been convicted under the DND Code of Military Discipline, of acts that constitute designated offences under the Criminal Code. Presently, there is no provision or method for these individuals to become registered sex offenders.

There is no requirement for sex offenders who are registered sex offenders in their own country to inform Canadian authorities of their presence in Canada. This would apply to visitors, convention refugees and refugee claimants.



From the perspective of certain of our police forces, a variety of amendments are required for the effective administration of the act.

First, there should be clarification of the offences for which a person can be ordered to register. Presently, the bill includes offences if committed outside of Canada that are not included if committed in Canada. It excludes offences committed in Canada if Committed outside of Canada.

There is a request for clarification of the language regarding the authority of the LGIC to make the regulations regarding the acceptable methods of reporting temporary absences. The present language states that the LGIC may not require the offender to report in person. It is unclear whether the drafter intended the permissive option of "may" or the restrictive option of "shall not." Given that the act will impose a duty on the collector of information to confirm the identity of the person reporting to be the registered sex offender, the permissive option is required.

Third, this prohibits entry of any data other than that which can be collected under certain clauses of Bill C-16. The effect of this is a prohibition of including data required to effectively administer the system, specifically: release dates of the offender; the annual update date; the date subject returned to incarceration; dates he left and returned from temporary absences or left the country; reporting date, if there are multiple orders; date notice was served, administrative records regarding the provisions of copies of the information as required under the bill; making or refusing requests for correction, dates and information was received or validated; administrative records of changes under the act; history of compliance or noncompliance; disposition of charges; and a record of which province has jurisdiction in the event an offender fails to report upon release, that is, which provincial centre takes responsibility for locating the offender and laying charges. Those who have administrated this type of work are cognizant of other administrative challenges.

Fourth, the bill imposes a requirement that the offender be informed of his obligations under the act at the time he receives the order. There is no location for the name and the signature of the person fulfilling that obligation. These are all administrative details.

In conclusion, they say that they look forward to the implementation of this proposed legislation. It is not perfect, but there is much good in it. We should seek to make it workable and effective to the fullest extent.

I reiterate for those of you who have not been in law enforcement that law enforcement is a strange business. Everyone figures that when police solve a crime that something mysterious has happened. When police go to the scene of a crime, generally they know nothing. Their greatest allies are informants or witnesses. They now also have the advantage of DNA testing and access to that data bank.

I can tell you, honourable senators, that there is a feeling of sheer emptiness and frustration and the wish to do something quickly when a child is victimized, sexually abused or murdered.

Let us do what we can. I am pleading with you. I am asking you to consider what the police are requesting. I know that some in here would say we should not give them too much power. There is a delicate balance under the Charter, but if we are to err, let us err on the side of our children and women in society.

**Hon. Senators:** Hear, hear!

**The Hon. the Speaker:** Do you have a question, Senator Cools?

**Senator Cools:** Yes, I do.

I should like to thank Senator St. Germain for a splendid statement and speech and for clearly articulating the concerns that are widely shared for the vulnerable, particularly children.

Senator St. Germain talked about Clifford Olson writing to members of Parliament and ridiculing them and so on. I received such a letter some years ago. Does the honourable senator have that letter with him or nearby? If so, perhaps he would put it on the record so that senators can comprehend what really goes on out there in what I would call a pathological, deviant, psychopathic mind. What he wrote to Senator St. Germain and I clearly reveals that type of mind.

I served on the parole board and I was a social worker. I helped apprehend many children to protect them from danger. I physically took children from parents who were hurting those children. The honourable senator is a former policeman. As senators, we rarely get first hand experience in this chamber. I knew some of Toronto's finest policemen. One of the things I have always been struck by within the business of law enforcement when dealing with the policemen was the enormous sorrow and feelings of helplessness they felt when they had to deal with injured, damaged or murdered children.

Honourable senators, when I say that it is time for us to study some of these issues in great detail, I mean just that.

Could Senator St. Germain tell us a bit more about the frontline, on-the-job experience that policemen have in dealing with these offences and these offenders? In our study in committee, we did not go into any of the deeper or more profound issues around these deviances. Could he tell us more about his frontline experience and why this bill was so wanted by the police and why, with any and all doubts that we had, we decided to report the bill without amendment?

• (1530)

**The Hon. the Speaker:** Honourable senators, I am sorry to interrupt but we will return to this item at the next sitting so that Senator St. Germain may proceed with his response.

Honourable senators agreed earlier today to a house order that, at 3:30 p.m., we would proceed to Item No. 68 under Motions so that Senator Jaffer might speak to that motion.

I would remind honourable senators that we have only 10 minutes, because I will rise at 3:40 p.m. to adjourn the sitting to await the arrival of Her Excellency.

## RWANDA

## MOTION TO RECOGNIZE GENOCIDE ADOPTED

**Hon. Mobina S. B. Jaffer**, pursuant to notice of March 29, 2004, moved:

That this House call upon the Government of Canada to recognize the genocide of the Rwandan people and to condemn any attempt to deny or distort a historical truth as being less than genocide, a crime against humanity.

She said: Honourable senators, today, the Canada-Africa Parliamentary Association and Women, Peace and Security commemorated the 10th anniversary of the genocide in Rwanda, wherein Senator Andreychuk spoke to the Rwandan community to say that the Rwandan genocide was not only of the Rwandan people but also of all people of the world.

Mr. Gasana, the president of Humura Association spoke eloquently to the next steps to be taken for the survivors. Mr. Philibert Muzima was courageous enough to share with us his personal account of the genocide. He ended by saying, «Quand est-ce-que sera justice pour nous? »

Ms. Gertrude Murekatete spoke to the role of mothers and said that she wants to teach young Canadian children that you do not kill someone because he or she is blonde or brunette; that is wrong.

Honourable senators, we heard very moving testimonies today, and I encourage you to go to the Humura Association Web site, to read the numerous testimonies of Canadian Rwandans who have shared their terrible stories with us.

Honourable senators, few events since World War II can be compared with what transpired in Rwanda just 10 years ago. In just 100 days, as many as our new Prime Minister has been in power, over 800,000 men, women and children were raped and murdered — a number that equates to the population of Ottawa-Gatineau. It was the worst genocide that the world has witnessed since the Holocaust.

According to the report of Human Rights Watch, shattering the bonds between Hutus and Tutsi was not easy. For centuries, they shared a single language, a common history and cultural practices.

Honourable senators, as a young child, I used to spend my holidays in Rwanda. I have very fond memories of Rwanda. I used to visit my uncle and play with other children in his garden for hours. I remember children of all ethnic origins playing together. From a child's eye, I do not remember the divisions. We were just playing together in a very peaceful country.

The Rwandan genocide was one of the most defining moments of the 20th century. For Rwandans, whether inside the country or abroad, the consequences of the genocide were direct and tangible. By the time the killing had stopped, three quarters of the Tutsi population had been decimated. Many Canadians were not even aware that such a horror was taking place.

However, one Canadian witnessed the events unfold and desperately tried to help with what little he had. He has come back from the edge of self-destruction and suicide to become a voice for the Rwandan people. In an interview with Ted Koppel, Retired General Romeo Dallaire said this: "Your mind with time, in fact doesn't erase things that are traumas. It makes them clearer."

I have fond memories of General Dallaire, who has offered to help the Canadian women's peace and security committee with its work. I am in awe of his energy and determination.

People such as General Dallaire have voiced anger over the way in which the western world acted during those three and one half months. It has been pointed out in papers that there was more coverage of Tonya Harding kneecapping her competition than there was coverage of the genocide. General Dallaire has so eloquently asked: "Are all humans human, or are some more human than others?"

Why did not the western world focus more attention on Rwanda and its people? General Dallaire said that the level of consideration for human life and raising western countries to that level above the level of self-interest is, I believe, an achievable objective in the years to come. He is a hero for, us not only because of what he witnessed but also for the deep impact it has had on him and how he continues to work on the issue. Honourable senators, it would have been a great pleasure to have General Dallaire here today, but he has returned to Rwanda to share his experience with the Rwandan people.

Rwandans are grappling with the challenge of rebuilding lives and their communities. Many came to Canada during or shortly after the genocide, and they have many memories they want to share with you. Honourable senators, the world forgot about Rwanda once; let us not do it again. Let us acknowledge, by this commemoration, the 10th anniversary of this horror.

I should like to read a poem found on the Humura Association's Web site. It reads, as follows:

The mass and majesty of this world, all  
That carries weight and always weighs the same  
Lay in the hands of others; they were small  
And could not hope for help and no help came;  
What their foes liked to do was done, their shame  
Was all the worst could wish; they lost their pride  
And died as men before their bodies died.

**Hon. A. Raynell Andreychuk:** Honourable senators, in consideration of our time constraint, I shall condense my comments.



I should like to second and support this motion acknowledging the Rwandan genocide. Members of the United Nations in New York signed the Convention on the Prevention and Punishment of the Crimes of Genocide in 1948. The convention declares that genocide is a crime under international law. It defines what genocide is and condemns this crime, whether it is committed in peacetime or in wartime. The convention was a response to the atrocities of World War II and the Holocaust. By agreeing to the convention, the world was essentially saying "never again."

Honourable senators, it has occurred time and time again, and the most horrific event constituting genocide occurred in Rwanda 10 years ago. General Dallaire, on the ground in Rwanda, warned the United Nations and the world community about the impending disaster. As he stated on April 8 to the United Nations, there was a very well-planned, organized, deliberate campaign of terror taking place. He said that it was a ruthless campaign of ethnic cleansing and terror. Was the Security Council told of that? The deputy to Kofi Annan, when Annan was the head of peacekeeping, stated: "Now, as I told you in the month leading up to this horrible event, everybody was concentrating on the political aspects, including the special representative. I have looked at his cables. I have looked at the records of his telephone conversation. There was no reference to a pending genocide, or at least killings." This term of "ethnic killings" and "ethnic cleansing" had been there for a long time, and it was adopted, of course, from Bosnia. Ethnic cleansing does not necessarily mean genocide; it means "terror to drive people away."

Honourable senators, despite knowing what we knew, a ruthless campaign of ethnic cleansing and terror turned into genocide, and we did not or could not realize that this was an unfolding genocide. Kofi Annan's deputy further stated that, to his recall, genocide did not emerge until May. Honourable senators, we should have known that it was impending and we should have acted.

Honourable senators, the time is short today, and so I will not talk about General Dallaire, except to say that he personally acted, first to protect his soldiers and then to protect civilian lives. They did not need orders. They did not need conventions. They acted automatically, as did others in the Red Cross and elsewhere, including other Rwandans.

• (1540)

Honourable senators, the world was graphically and horrifically reminded that genocide is a concern for all. We must all take responsibility. Those in Rwanda must come to terms with their fellow man and adapt to build a society that will never forget the mistakes of the past, but also build a society where all citizens will have dignity and respect. The country struggles with this, as it does with the usual challenges of a country in Africa. For the international community, genocide has continued to happen, and we must take responsibility for that, despite repeated promises that it would not happen again.

In part, the International Criminal Court is the answer. However, the Rwandan genocide will serve to remind us to all act with personal commitment as General Dallaire did, and also to act with political will, as our office demands.

**Hon. Senators:** Hear, hear!

**Senator Kinsella:** Question!

**Some Hon. Senators:** Question!

**Hon. Anne C. Cools:** Honourable senators, I move the adjournment of the debate. I clearly said earlier that I wanted to speak on this debate and that I was unable to speak to it today. Honourable senators, something is very wrong here.

**The Hon. the Speaker:** Honourable senators, it is moved by the Honourable Senator Cools, seconded by Honourable Senator Watt, that debate be adjourned to the next setting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** No.

**Some Hon. Senators:** Agreed.

**The Hon. the Speaker:** Will those honourable senators in favour of the motion to adjourn the debate please say "yea?"

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Will those honourable senators against the motion to adjourn the debate, please say "nay?"

**Some Hon. Senators:** Nay.

**Some Hon. Senators:** Question!

**Senator Cools:** Honourable senators, I want to record that I agreed to have the order move forward so that I could take the adjournment. There is not time for me to speak today.

**The Hon. the Speaker:** Honourable senators, I am sorry, but we have disposed of the motion to adjourn the debate. The record shows what Senator Cools said earlier. I will put the question.

It was moved by the Honourable Senator Jaffer, seconded by the Honourable Senator Andreychuk:

That this house call upon the Government of Canada to recognize the genocide of the Rwandan people and to condemn any attempt to deny or distort historical truth as being less than genocide, a crime against humanity.

Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

**Senator Cools:** No.

The motion was agreed to, on division.

**The Hon. the Speaker:** Honourable senators, it now being 3:40 p.m., is it the pleasure of the house to now suspend the sitting to await the arrival of the Governor General?

**Hon. Senators:** Agreed.

The sitting of the Senate was suspended.

[Translation]

### ROYAL ASSENT

Her Excellency the Governor General of Canada having come and being seated on the Throne, and the House of Commons having been summoned, and being come with their Speaker, Her Excellency the Governor General was pleased to give the Royal Assent to the following bills:

An Act respecting user fees (*Bill C-212, Chapter 6, 2004*)

An Act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence (*Bill C-4, Chapter 7, 2004*)

An Act to amend the Hazardous Products Act (fire-safe cigarettes) (*Bill C-260, Chapter 9, 2004*)

The Honourable Peter Milliken, Speaker of the House of Commons, then addressed Her Excellency, the Governor General as follows:

May it please Your Excellency.

The Commons of Canada have voted certain supplies required to enable the Government to defray the expenses of the public service.

In the name of the Commons, I present to Your Excellency the following bills:

An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004 (*Bill C-26, Chapter 5, 2004*)

An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005 (*Bill C-27, Chapter 8, 2004*)

To which bills I humbly request Your Excellency's assent.

Her Excellency, the Governor General was pleased to give the Royal Assent to the said bills.

The House of Commons withdrew.

Her Excellency, the Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until Thursday, April 1, 2004, at 1:30 p.m.



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